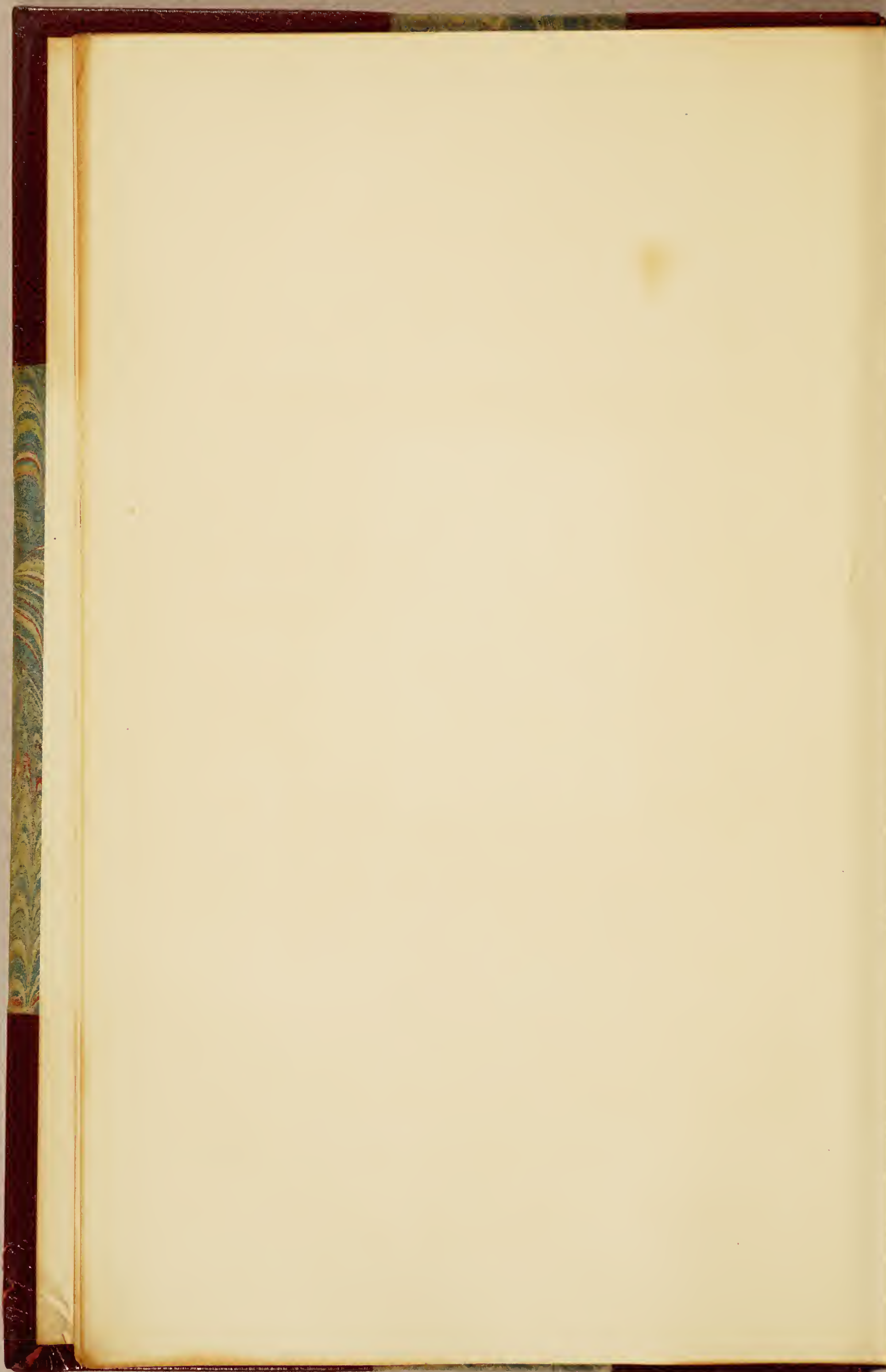




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A N
HISTORICAL ESSAY
O N T H E
ENGLISH CONSTITUTION:

O R,

An impartial Inquiry into the Elective Power of the
People, from the first Establishment of the Saxons
in this Kingdom.

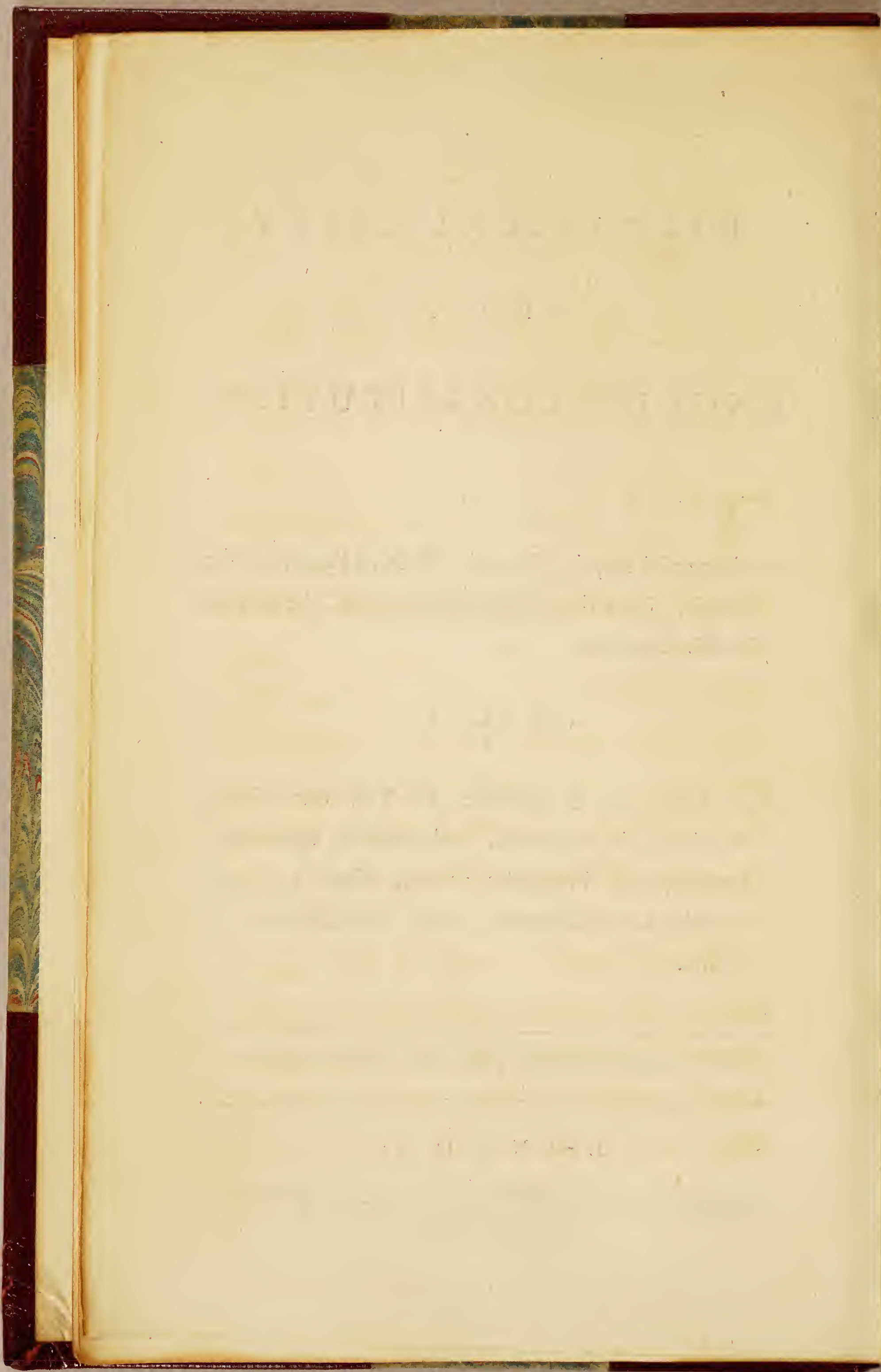
W H E R E I N

The Right of Parliament, to Tax our distant
Provinces, is explained, and justified, upon such
constitutional Principles as will afford an equal
Security to the Colonists, as to their Brethren at
Home.

Where annual Election ends, there Slavery begins.

L O N D O N :

Printed for EDWARD and CHARLES DILLY in the Poultry.
M.DCC.LXXI.



T H E

P R E F A C E.

TH E motive, which induces the Author to lay these papers before the public, is, an honest desire to shew the true cause of that general discontent, which now distracts the British Empire; and, to point out the constitutional means of reconciliation, between Great Britain and her distant provinces.

The Author of this Essay apprehends, that the true cause of the present general discontent, hath its foundation in some modern laws, which, though they have preserved the outward form

and face of the legislative authority, have caused a total change in the spirit, and temper of our government. Whilst the people, from a similar appearance have vainly expected a similar effect, but find themselves continually disappointed, and their misfortunes increasing with time.

To elucidate this matter, and to shew the public their deception, the Author hath carefully examined the foundation upon which the constitution was established in England; by our Saxon forefathers; and remarked the variations, which have taken place, at, what is commonly called, the conquest, and since that period; but more especially those which have taken place since the REVOLUTION.

And

And though he doth not pretend, to elegance of style; he hopes he hath been able, to deliver himself so clearly as to be intelligible. For the rest, he depends upon the indulgence of the publick, to whose service his labour is dedicated. If his observations should be found erroneous, he most sincerely wishes some more able pen may inform him better. But, if approved, shall think himself happy, in having contributed his mite, to set the laws and constitution of his country in a clear and proper light.

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A N
HISTORICAL ESSAY
ON THE
ENGLISH CONSTITUTION.

CHAPTER I.

Some remarks, upon government adapted to the subject.

TH E motives for which mankind associate together, being for the protection of their persons, and property from violence, it is a matter worthy of observation, that they have often mistaken their end, and have frequently fallen into slavery and misery, by the very means they have taken to preserve themselves happy and free. This perhaps may, in some measure, arise from some latent cause in the nature of government itself, which, in all societies, necessarily implies a power to be vested somewhere ; and the difficulty seems to be, in placing that power in such a manner, that it may not be subject to abuse, and counteract the end for which it was established.

If the first principle of government be erroneous, there is nothing but error that can proceed from it. And if the first principle of government be even founded upon truth, yet such is the insatiable thirst of power, in most men, that they will sacrifice even heaven and earth, to wrest it from its foundation; to establish a power in themselves, to tyrannize over the persons and property of others. Thus, what we call, the civilized state of man, has long been reduced to a far more miserable condition, than the savage.

Those communities of men, that have laid down the paternal authority as the first principle of government, that is, that the head of the oldest branch of a tribe, should govern the tribe, have founded themselves upon the principles of slavery; and have accordingly, in a few generations, fallen under the despotick rule of one man; as we find, many of the eastern nations have done, from the most early period of history. They had either no idea of any mode of government, by which individuals, might exercise their natural rights, as men, or they totally disregarded it.

The free states of Greece were the first, in ancient history, that had any regard to the natural rights of mankind. These founded, their first principles of government, upon truth; by placing the supreme power of the state, in laws
made

made by the mutual consent of the people ; who likewise elected officers, to administer those laws for a limited time only. The Romans were the next body of men that figured, in the world, upon this principle ; and, indeed, they received their information from the Greeks, whom they copied in most of their principles of law, and government.

But the northern nations, that over-ran Europe, at the dissolution of the Roman empire, introduced a model of government, for the preservation of the common rights of mankind, as far superior to the Greek and Roman commonwealths, as these surpassed the governments of the Medes, and Persians. It was to some branches of those northern tribes, distinguished by the name of Saxons, that the English are indebted for their constitution, or mode of government ; introduced into England, about the year four hundred and fifty. And whoever considers the principles, upon which the elective power, in our constitution, is conducted, will observe the vast superiority it has, over the states of Greece, or Rome ; where the elective power was confined, within the walls of their respective capitals. Whatever, therefore, the love of natural liberty, among the Romans, might be, or their desire of promoting it ; they seem to have had no conception of any model of government, where the elective power of individuals, could diffuse it-

self through the whole body of a nation, containing some millions of men, living perhaps a thousand miles distant, from the seat of government. And yet be so conducted, as to unite, into one point of action, parts so numerous, and remote, and form a legislative authority, commodiously fit for action, without anarchy or confusion; in which every man, who had so far distinguished himself, as to become a housekeeper, and as such, liable to pay his shot, and bear his lot, might give his consent to every law, that was made for his obedience.

Whoever had the honour of being the first inventors of this mode of government, it is very evident, that the natural rights of mankind were their guide, and truth and justice their ends, in all their establishments. They considered every man alike, as he came from the hands of his maker, man as man, simply and detached from any foreign advantages, one might, accidentally, have over another. Such as riches, which make the greatest outward difference; but riches with them, constitutionally considered, gave no power or authority, or any right to power and authority, over the poorest person in the state. Every man, under that institution, was preserved in his natural, and equal rights, whether he were rich or poor.

It

It is the nature of society, that mankind must give up something of their natural liberty, to obtain the advantages of an united strength. For as every man cannot act for himself, in large communities, he must delegate his power in trust, to some other person to act for him. And therefore a government, formed upon the principles of a delegated power, is the utmost stretch of liberty, which the nature of society can admit of. Where this power is delegated, by as many as can conveniently act without confusion, or a large majority of the people, it will be fully effectual to all. For though a man place himself, or be placed under such circumstances, as to render it impossible for him to exercise his right of election, in the community to which he belongs, yet he may always receive the full benefit of a government founded upon the principles of election, as much as if he were an elector, so long as he is bound by no other law than those are, who do exercise the power of election; because they must of necessity take care of his interest, at the same time they take care of their own.

All government must, in its own nature, be confined to time and place. And where men are so circumstanced, that they cannot fall in with time and place, they must receive, the benefit of the constitution, from those who can. Were it otherwise, a society, formed upon the common
rights

rights of mankind, could never advance beyond a certain limited point; or form any advantageous plans, by the extension of territory, for the mutual benefit of the whole community; which would counteract the very end of society itself. But our constitution, by admitting such a number of electors, to exercise their natural rights of election, gives it a superiority to all others; and affords a plentiful security to every man, let him be placed where, and in what condition soever he may. Thus our Saxon forefathers, have founded their government, upon the common rights of mankind. They made the elective power of the people, the first principle of our constitution, and delegated that power to such men, as they had most reason to confide in. However, they were curiously cautious in this respect, knowing well the degenerating principles of mankind; that power makes a vast difference in the temper and behaviour of men, and often converts a good man in private life, to a tyrant in office. For this reason, they never gave up their natural liberty, or delegated their power, of making laws, to any man, for a longer time than one year.

The object upon which our elective power acts, is remarkably different from that of the Romans. Theirs was directed to operate in the election of their chief officers, and particularly the consuls; or those who were vested with the executive authority,

rity, whom they changed annually. But the senate, where the principal power in their state was lodged, was a more fixed body of men ; and not subject to the elective power of the people.

Our Saxon forefathers almost reversed this principle ; for they made their wittena-gemot, or parliament, where their principal power was lodged, annually moveable, and entirely subject to the elective power of the people ; and gave a more fixed state, to the executive authority. This last, they confined within a certain sphere of action, prescribed by the law ; so that it could not operate to the injury of any individual, either in his person, or property ; and was controllable in all acts of state, by the elective power, which the people vested annually in their wittena-gemot, or parliament.

The annual exercise of elective power, under the Saxon government, was the quintessence, the life and soul of their constitution ; and the basis of the whole fabrick of their government, from the internal police of the minutest part of the country, to the administration of the government of the whole kingdom. This Saxon institution, formed a perfect model of government ; where the natural rights of mankind were preserved, in their full exercise, pure and perfect, as far as the nature of society will admit of.

It

It would be something surprising, to find the people of England continually disputing, about the principles, and powers, vested in the constituent parts of their government; did we not know that, at this day, it consists of a mixture of the old, or first establishment, and the new, or that which took place at (and since) what is commonly called the conquest, by William the first. These two forms of government, the first founded upon the principles of liberty, and the latter upon the principles of slavery, being so diametrically opposite, it is no wonder that they are continually at war, one with the other. For the first is grounded upon the natural rights of mankind, in the constant annual exercise of their elective power, and the latter upon the despotick rule of one man. Hence our disputants drawing their arguments from two principles widely different, it is no wonder they should differ in their conclusions.

Our Saxon forefathers, established their government, in Britain, before the transactions of mankind were recorded in writing; at least, among the northern nations. They, therefore, handed down to posterity, the principles of their government, by the actual exercise of their rights; which became the ancient usage, and custom of the people, and the law of the land. And hence it came to pass, that when this ancient custom and usage ceased to act, the remembrance of the custom
ceased

ceased with it. We may add to this, that, since the conquest, our arbitrary kings, and men of arbitrary principles, have endeavoured to destroy the few remaining records, and historical facts, that might keep in remembrance a form of government so kind, friendly, and hospitable, to the human species. It is for these reasons, that we have such a scarcity of historical evidence, concerning the principles, and manner of conducting, the first establishment of our mode of government, in this kingdom.

However, notwithstanding these difficulties, and the time that hath elapsed, there are four sources, from whence we may draw this intelligence. First, from the great remains of it we have, in our government, now in use; secondly, from the several Saxon establishments that are still in being, but of no use, with respect to the end of their first establishment; thirdly, from the glimmering lights of ancient history; and lastly, from the known alterations that have taken place, at, and since the conquest. There are also many customs, forms, principles, and doctrines, that have been handed down to us by tradition; which will serve as so many land-marks, to guide our steps to the foundation of this ancient structure, which is only buried under the rubbish collected by time, and new establishments. Whatever is of Saxon establishment, is truly constitutional; but whatever is

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Norman,

Norman, is heterogeneous to it, and partakes of a tyrannical spirit.

From these sources it is, that I would endeavour to draw the out lines of this ancient model of government, established in this kingdom, by our Saxon forefathers; where it continued to grow, and flourish, for six hundred years; till it was overwhelmed, and destroyed, by William the first, commonly called the conqueror, and lay buried under a load of tyranny, for one hundred and forty seven years. When again it arose, like a phenix from its own ashes, in the reign of Henry the third, by the assistance of many concurrent causes; but principally by the bravery of the English people, under the conduct, and intrepidity, of our ancient and immortal barons, who restored it, in part, once more to this isle. And though much impaired, maimed, and disfigured, it hath stood the admiration of many ages; and still remains the most noble, and ancient monument of Gothick antiquity.

CHAP.

CHAPTER II.

*The first establishment of our constitution, by the Saxons,
to what is commonly called the Norman conquest.*

SECT. I.

Under the Heptarchy.

THE first principle of a government, that is founded upon the natural rights of mankind, is the principle of annual election. Liberty and election, in this case, are synonymous terms; for where there is no election, there can be no liberty. And therefore, the preservation of this elective power, in its full extent, is the preservation of liberty in its full extent; and where that is restrained, in any degree, liberty is restrained just in proportion; and where that is destroyed, by any power in a state, whether military, or civil, liberty is also destroyed by that power, whether it be lodged in the hands of one man, one hundred, or one thousand.

I have said, that there is a natural difficulty in placing mankind in such a situation, that they might delegate their power to others, without confusion or inconvenience to themselves. It is in this point, that we are so much indebted, to our

Saxon forefathers, for their plan of government ; by which the people of England are so situated, as to be able to elect, or delegate their power, with the greatest facility ; and to a degree beyond the conception, of all nations before them.

It is reported, by historians, that our Saxon forefathers had no kings, in their own country, but lived in tribes, or small communities, governed by laws of their own making, and magistrates of their own electing ; and further, that a number of these communities were united together for their mutual defence, and protection. But by what particular bond of union they were thus united, I know of no historian that hath given us any information. There were seven tribes of Saxons, that arrived, in Britain, about the same time, under so many different leaders ; but as they had all the same intentions, so far as to establish the same form of government, I shall consider them, in this respect, indiscriminately.

They first divided the land into small parts, and that divided the inhabitants, upon that land ; and made them a distinct, and separate people, from any other. This division they called a tithing. Here they established a government, which was, no doubt, the same as that under which they lived, in their mother-country ; and, with as little doubt, we may say, it was the same
which

which is used, in our corporations, at this day ; as will, hereafter, more fully appear. They had two sorts of tithings, one called a town-tithing, and the other a rural tithing. These were governed upon the same principles, only thus distinguished ; as one is expressive of a town, having such a number of inhabitants, as to make a tithing of itself ; and the other of a tithing situated in the rural part of the kingdom. Thus they went on, as they conquered the country, to divide the land, till they had cut out, the whole kingdom, into tithings ; and established, the same form of government, in each.

In this manner they provided for the internal police of the whole country, which they vested in the inhabitants of the respective tithings ; who annually elected the magistrates, that were to administer justice to them, agreeable to the laws, and customs, they had brought with them, from their mother-country. And this internal police was so excellent, in its nature, that it hath had the encomiums of most authors of our history ; who observe, that, in the reign of Alfred, it was in so great perfection, that, if a golden bracelet had been exposed upon the high road, no man durst have touched it.

The principal officer of a tithing, was vested with the executive authority of the
tithing

tithing. They had likewise, a legislative authority, in every tithing; which made laws, and regulations, for the good government of the tithing. Besides these, they had a court of law, whose jurisdiction was confined within the same limits. All which were created by the elective power of the people, who were resident inhabitants of the tithing; and the right of election was placed, in every man that paid his shot, and bore his lot. From hence we may easily perceive, that, under the establishment of these tithings, by reason of their smallness, the natural rights of mankind, might very well be preserved in the fullest extent; as they could delegate their power by election, without any confusion, or inconvenience to the inhabitants.

Having advanced thus far, I would make one observation; which is, that all elective power in the people at large, after it had established the executive, and legislative authority, in the tithing, for one year, and duly vested the officers in their respective departments, then stopped; and proceeded no further than the tithings. But the principal officer, of each tithing (whom for distinction's sake we shall call mayor), had, afterwards, the whole care of the interest of the people, of the tithing, vested in himself alone; in every matter that respected their connexion, with the higher orders of the state. For these tithings were the
root

root from whence all authority, in the higher orders of the state, sprung.

The first connexion the tithings had with one another, was to form an establishment, for the military defence of the country. For this end, a number of these tithings were united together, so far as related to their military concerns. This union necessarily created a larger division of the land, equal to the number of tithings that were thus united; and this they called a wapentake, or weapontake. Here likewise they established a court of council, and a court of law, which last was called a wapentake-court. In the court of council, the chief magistrates, of every tithing, assembled to elect the officers of the militia, to their respective command, and regulate all matters relating to the militia; in which every individual tithing was concerned. The court of law was to enforce these regulations, within that jurisdiction.

Let us now consider the third, and last division, which they made in the land. This was composed of a certain number of wapentakes, united together; which they called a shire, or one complete shire, or part, into which they divided the land. This division completed their system, of internal police; by uniting all the tithings, within the shire, into one body, subject to such laws
and

and regulations as should be made in their shire-gemots, or shire parliaments; for the benefit, and good government of the shire.

The members that composed the shire-gemot, were still the chief officers of the tithings; who always represented the tithings in every thing, in which they were concerned. It was in this shire-gemot, where the great officers, of the shire, were elected to their office; who consequently were elected, by the immediate representatives of the people, but not by the people at large. This seems to satisfy what historians observe, that the great officers, of the shires, were elected by their peers. What I understand by this is, that they were elected by men, who were members of the wittena-gemot, or parliament; and consequently peers, or equals, at that day, to any men in England. There were many titles, that seem to have belonged to their superiour orders of men; but they were only titles of office, and not personal titles of honour. And we shall, hereafter, have occasion to observe, that, when the office, by which they held their titles, was abolished, from that time the title vanished with it.

As this division comprehended many tithings, and many people, so it had the greatest court of council in England, except the high court of parliament; and the chief officer was vested with

as

as high a jurisdiction, in the shire, as the king in the kingdom. He was vested with the executive authority, and was commander in chief of all the militia ; in short, he was the same, in the shire, as the king was in the kingdom. They had likewise a court of law, called the shire-court; to which, I make no doubt, every man might appeal, who thought himself injured by the inferior courts, in the shire. These divisions in the land, are what I call, the skeleton of the constitution ; which was animated, and put in motion, by all these establishments.

We may consider each shire, as a complete government ; furnished with both a civil, and a military power, within its own jurisdiction. The expence, attending each government of a shire, was merely local, and confined to the shire ; which was supported by taxes charged upon the people, by the shire-gemot, with the assistance of certain lands, appropriated to that purpose ; which was a clear and distinct thing, from a national expence, and never brought, to the national account, at all. And, indeed, it is the same at this day, though conducted in a different manner ; for the internal government of this kingdom, is no expence to the state, and is founded upon this equitable principle, that whatever expence concerns only a part, ought to be paid by that part only ; but what concerns the whole

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commu-

community, ought to be paid by the whole community. I would here just beg leave to observe, that the government, established for the internal police of our American provinces, is founded upon the same principles, as that which our Saxon forefathers established, for the government of a shire. And their connexion with, and duty to the legislative authority, of the whole united kingdom, is, constitutionally considered, the same in each.

We have already remarked, that seven tribes of these Saxons arrived, in Britain, about the same time. The leaders of these tribes, after they had conquered a small part of the country, upon which they settled their immediate followers; then took upon themselves the title of king; and named, the land they conquered, a kingdom. We shall say nothing, with regard to the particular geographical dimensions of these kingdoms; it being sufficient, for our present purpose, to observe, that each of these kingdoms, did contain a certain number of shires, formed and regulated as we have stated above.

Let us now see by what mode of union, these shires became united together into a kingdom. And it will be found, I apprehend, that they pursued the same principles, which they had used in every other establishment. That is to say, wherever
a com-

a combined interest was concerned, and the people at large were affected by it, the immediate deputies of the people, who were always the chief officers of the tithings for the time being, met together to attend to the respective interests of their constituents; and a majority of voices always bound the whole, and determined for any measure, that was supposed to operate for the good of the whole combined body. This meeting of the deputies of the people was called, by the Saxons, the wittena-gemot, or an assembly of the wise men of the nation; which composed their national council, and legislative authority.

Let us suppose, for instance, that one of these small kingdoms was composed of five shires; then a deputy from every tithing, within the five shires, meeting together, would compose the constituent parts of the parliament, of the little kingdom to which they belonged. This agrees with what saint Annon says, in his essay on the legislative authority of England, that the judges, or chief officers of the tithings, represented the tithings, in the Saxon wittena-gemot, or parliament.

We know very well what town-tithings, or boroughs are, because they are now in use, in some respects, for the same purpose as formerly; but we are not so well acquainted with the dimensions of the rural tithings, according to their an-

cient establishment. But it is very probable, that the division in the land, which we now call the high constable's division, was the bounds of the ancient rural tithings. And what makes this the more probable is, that the high constable, in his division, is a man of a very high authority even at this day; and as ancient a peace officer, as any in the kingdom. However, be that as it will, from what has been said we may conclude, that the constituent parts of the legislative authority, during the Heptarchy, consisted of two bodies of men, which were both elective; and respectively represented the inhabitants of the towns, and the inhabitants of the rural parts of the kingdom.

But as a considerable alteration was made, in this respect, at the union of the seven kingdoms into one, by Alfred the great, it will be proper here to remark, the constituent parts of the parliaments, and the rights of election of the people, during the Heptarchy. First, the representatives of the town-tithings, or boroughs, were always their chief magistrates for the time being, by virtue of their office; to which they were annually elected, by every man that was a resident inhabitant of the town, and that paid his shot and bore his lot.

Secondly

Secondly, the representatives of the rural tithings, were likewise their chief magistrates, for the time being, by virtue of their office; to which they were annually elected, by every man that was a resident inhabitant of a rural tithing, and that paid his shot and bore his lot.

Hence it is evident, that the people never delegated their power, to their members of parliament, for a longer time than one year. Because the powers, vested in them, must of course expire with their office; they being mayors, or chief magistrates, in their respective divisions. And before such a member was out of his office, as mayor, he was obliged by law (*ex officio*) to assemble the people, of the town, for the election of officers, to serve for the ensuing year; the principal of whom was their mayor-elect, who, consequently, was their member elect. And, for the same reason, it was not in the power of the king, to continue the same parliament longer than one year. Thus we see that the constitution, hath doubly armed itself, against long parliaments; by confining the power of the members, within the duty of an annual office.

S E C T.

S E C T. II.

Under the Monarchy.

I HAVE already remarked that a number of the Saxon tribes, while in their own country, were united together for their mutual protection, and defence. In like manner was our Heptarchy connected; and their mode of union, became part of the constitution, when the seven kingdoms united under one king. The matter was simply this: one of the seven kings, was always chosen generalissimo over the whole body; and they appointed him a standing council, of a certain number of deputies, from each state, without whose advice, and concurrence, it is probable he could not act.

However, I do not mean to make any observation, upon the powers vested in this standing council; but only to point out that body of men, as the origin of our house of lords. Those deputies, who composed this great standing council, were appointed to their trust, by the joint consent of the king, and parliament, of the little kingdom from whence they were sent. And when Alfred the great, united the seven kingdoms into one, he, undoubtedly, with the approbation of the people, incorporated this great council, as a separate branch of the wittena-gemot, or parliament; so that they still continued to be the king's great council, and
a branch

a branch of the legislative authority ; which they are at this day. In confirmation of which, it is observable that the consent of the parliament, continued necessary, for creating a baron of the realm, about as low down as Henry the seventh ; which is the only title, by which any man can obtain his seat, in our house of lords ; and not as duke, marquis, earl, viscount, &c.

From whence it appears, that the same authority, that is, the consent of the king and parliament, continued as necessary for the creation of a lord of parliament, as for creating one of the great council to the generalissimo, of our Saxon kings, during the Heptarchy. And in all probability, it will, some time or other, be a doubt, whether the king's patent alone will be self sufficient, to create a baron of the realm, without the consent of parliament ; agreeably to the original institution, and confirmed by the custom, and usage of so many ages.

The Saxons had no sooner made a conquest of England from the Britons, than they began to quarrel amongst themselves which of the seven kingdoms should be the greatest. This contest was carried on, with various success, for a number of years, till at last they became happily, and finally united into one, under Alfred the great ; a prince
of

of the most exalted merit, that ever graced the English throne, from that day to this.

He was a great warriour, an able statesman, and a person of great learning; he knew, and loved the constitution of his country; and above all, was an honest man, and the common friend to mankind. It was a singular providence, to this kingdom, that the new modelling of the government, should fall under the management of so great a genius; that was able to reconcile such a variety of interests, as must be affected by the necessary changes, which took place upon that occasion.

It is needless to mention that, after the union of the seven kingdoms, a reduction of members, to serve in parliament, became absolutely necessary. Because it was then impracticable, by reason of their numbers, for the same members to attend, in one parliament, that used to attend in seven, without such anarchy, and confusion, as must counter-act the very end of their meeting.

Nature herself has confined, or limited, the number of men, in all societies, that meet together to inform and be informed, by argument and debate, within the natural powers of hearing, and speech. So that the question, in this case, must have been, how to reduce the representatives
of

of the people, in parliament, to be a convenient number, to transact the business of the nation; and, at the same time, preserve, the elective power of the people, unhurt? A question of no small difficulty to determine, considering the various interests that were affected by it.

Let us now proceed to the formation of one parliament, which was now to be established, in the room of seven, for the service of the whole united kingdom.

They excluded, from this parliament, all the representatives of the rural tithings, as being a body of men the most numerous of any, considered collectively, and yet elected by the fewest people, in proportion; which must be very evident, since the rural part, of the kingdom, must, of course be more thinly inhabited than the towns. Besides, the town-tithings, or boroughs, where a great number of inhabitants are collected together upon a small compass of ground, were, undoubtedly, the most conveniently situated, for the commodious exercise of the elective power of the people. And the towns being few, in comparison to the rural tithings, and at the same time dispersed over the whole country, were the best adapted to receive the regulations, they intended to make, in their plan of

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forming the constituent parts, of the new parliament.

In satisfaction for abolishing the representatives, of the rural tithings, they substituted two new bodies of men. The first, as hath been hinted before, were the members of the great council of the nation, which attended the generalissimo under the Heptarchy; who were, upon this occasion, incorporated as a distinct branch of the parliament, under the monarchy. And whatever their power might be, as the king's great council, they were now incorporated as a distinct branch of our parliament; as a body of great freeholders, exercising their legislative power in person; and for that reason have since, by way of eminence, been stiled barons of the realm. It is upon this ground, that our house of commons are of opinion, that a lord of parliament, hath no right to interfere in matters of election.

Though the barons of the realm, carried into parliament, the greatest concern for the interest of the rural part, of the kingdom, of which, perhaps, they were the greatest proprietors; yet, not being elective, they were not such a body of men, as the constitution, and the safety of the inhabitants, of the rural tithings, required. And, there-

therefore, they constituted shire-elections, for two members to represent the shire, in parliament; and those representatives were the origin of our knights of the shire.

The Barons of the realm, and the knights of the shires, I consider as two bodies of men that were substituted, at the establishment of the monarchy, under Alfred the great, in the place of those representatives that used to serve, under the Heptarchy, for the rural tithings. The alteration that was made, with respect to the towns, or boroughs, was simply this: that all boroughs, that used to send one member to the little parliament, to which they belonged under the Heptarchy, should, for the future, send two to the great parliament of England.

Thus the seven kingdoms, of the Heptarchy, became finally united under one king, or chief magistrate, and one parliament. By which means the members were properly reduced, to a convenient number to hear, and to be heard, to inform, and to be informed, by argument and debate; which is no small difficulty in a government, founded upon the common rights of mankind; where the elective power of the people is diffused, through a whole kingdom, like that of England.

We

We will now conclude, this part of our subject, by enumerating the constituent parts of the parliament, as it was thus new modelled, under the inspection of Alfred the great :

First, it consisted of the barons of the realm ; created by the mutual consent of the king, and parliament.

Secondly, of the knights of the shires ; elected by the rural inhabitants of the shires, paying their shot, and bearing their lot.

Thirdly, of the burgeses ; who represented the people of the towns ; and were elected by every resident inhabitant, that paid his shot, and bore his lot.

I have thus endeavoured to give the history of the mode of government, introduced into this kingdom, by our Saxon forefathers, about the year 450, to the union of the seven kingdoms into one ; when the constitution of this country, became finally established, as a great nation. And whoever attentively considers this matter will see, that our Saxon forefathers had only one mode of government, which they made use of on all occasions ; both to govern a town, a city, a wapentake, a shire, or a kingdom. And that the power, vested in our Saxon kings, was circumscribed

scribed by the same rule, was of the same genius, spirit, and temper, as that vested in the chief magistrate of a city. The only difference between them, was in the circle, and duration, of their authority ; the care of the one being annual, and confined within the walls of his city ; and the care of the other being for life, and extended over the whole kingdom.

There were three things essentially necessary, to form a Saxon government, which they applied to every case, where a combined interest was concerned ; and these were, a court of council, a court of law, and a chief magistrate. A court of council, to consider what was for the benefit of the whole society ; and to make laws, orders, and regulations, for the good government of the people, within that jurisdiction. A court of law, to enforce due obedience to the acts, and orders of the court of council. One chief magistrate, who was vested with the executive authority to administer the constitution to the people ; and whose duty it was to take care that every man, within his jurisdiction, paid a due obedience to the law.

In this manner every borough, was furnished with a court of council, a court of law, and a chief magistrate. Every wapentake, and rural tithing, had the same. Every shire had likewise a court of council, called the shire-gemot, and a
court

court of law, called the shire-court, and a chief magistrate. The same establishment held good, in the administration of the government, of the whole kingdom : for the court of council, was the high court of parliament; the king's court, was the court of law ; and the king himself, was the chief magistrate.

As it was impossible for the chief magistrate, in great towns, to execute the business, without encroaching too much upon his time ; and hindering his attendance upon the higher orders of the state, where his presence was more particularly necessary ; they elected a number of men, whose business was to assist the chief magistrate, in the execution of his duty, at home. The principal of these were, what we now call, the aldermen of a town ; and there were, besides, many other inferior officers.

The first duty that the chief magistrates, of the tithings, had out of their own division, was to attend at the wapentake-meeting ; where they formed, the wapentake-court of council. Their second duty, was to attend at the shire-gemots ; where they again formed the court of council. And lastly, they attended in the wittena-gemot ; where they formed the common council, in the high court of parliament.

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It is very evident from history, and I think it is generally agreed, that our Saxon kings after their establishment in England, enjoyed the crown during their natural lives; and that, at their death, their successor was elected to his office, by the parliament. However, they generally gave the preference, to some one of the same family; who was capable of executing his office, in person. For our Saxon forefathers had no principle, in their mode of government, by which power, or office, could be obtained peaceably, by any other means, than by receiving it from some body of men, who had a right to give it.

Were an old Saxon to rise out of his grave, and be told, that there was an hereditary right, to power, in kings; and that England, was sometimes governed by a child; he would be greatly surprised, and tell you it was the oddest conception that ever entered the mind of man. And yet, as things are now situated, wise men are of opinion that chance, in this case, is better than choosing.

This Saxon model of government, when reduced to its first principles, has a strong resemblance to the natural state of things, under which mankind were found to live, at the discovery of the new world, by Columbus. And I make no doubt,
but

but that our American tribes, of native Indians, would naturally fall into our way of government, upon the Saxon principles, with a very little instruction.

However, be that as it may, it was a government founded upon the principles of universal benevolence. And though I would not be thought to talk like a constitutional enthusiast, yet I am of opinion, that if ever God Almighty did concern himself about forming a government, for mankind to live happily under, it was that which was established, in England, by our Saxon forefathers; under which they continued to live free, and happy, for six hundred years, before the Norman conquest; when, for a time, it was totally lost or little regarded.

If we were to select the attributes of good government, we should find them to consist in wisdom, and justice. And if we could divide those virtues, from all bad qualities, in men, and place such men, and such only, to rule over us, we should establish an heaven upon earth. The power of election, which our government hath diffused through the whole nation, will always produce this happy effect, when it is left to operate upon its genuine principles. For, by dividing the country into small parts, as our tithings were, the character of every man, that was fit to
bear

bear an office, was well known amongst his neighbours. And, therefore, when the choice of an officer, to preside over them, was their object of election, the concurrent sentiments of an uninfluenced majority, of a multitude of people, would naturally fall upon those men only, who were most eminent for their wisdom, and justice.

Thus our Saxon forefathers bade the fairest, of any men, to obtain a government formed upon the principles of wisdom. And their high sense upon this matter, is most emphatically expressed, by the name they gave to their parliament; which, as hath been said, they called THE WITTENA-GE MOT, or an assembly of wise men.

CHAPTER III.

The destruction of the Saxon mode of government, by a combination of the clergy with William the bastard, duke of Normandy.

SECT. I.

The ground upon which the clergy first established their religious tyranny.

BEFORE I proceed to observe the destruction that was made in the constitution, or mode of government, by the fatal union of the church with William of Normandy, I must not forget to take notice, that I have not given the clergy a place, in the Saxon parliaments; because they were foreign to the original institution, and only grafted themselves upon it, after it was established in England. But as they afterwards obtained so considerable a share, both in the legislative authority, and the administration of the government, it may not be amiss, to give some account how they came by it.

The Roman pontiff, had already extended his plan of church-power, to a great degree; and the nature of the government introduced into Europe, by the northern nations, greatly contributed to his success. All history is full of the dreadful consequences,

ces, that have attended the baneful influence, which every religious hierarchy hath always had, upon the bulk of mankind. And, a government, founded upon the elective power of the people, where their favour was the high road to riches, power, and grandeur, gave a fine opportunity to such an artful designing set of men, by their intrigues, and influence, to procure themselves, or their devotees, to be elected into the chief magistracy of the towns, and country divisions. By this means they possessed themselves, in a great measure, of the legislative authority; and consequently became, in proportion, masters of the state. For whoever is master, of the legislative authority, in any state, is undoubtedly master of that state.

Having thus taken possession, as it were of the mansion, they were not long before they began to plunder it. However, they first established, and secured, the power of the church, by a variety of laws, made in her favour; and defended them by every ecclesiastical establishment, that papal cunning could invent. So that they were now prepared to receive, in the name of the church, all the riches, honours, and power, which they could, by any means, obtain. And what is more, they knew too how to keep them, when they had obtained them. For, according to their maxim, whatever was given to the church, was given to God; and,

and, therefore, was never afterwards subject to be taken away, by any earthly power whatever.

Thus they endeavoured to provide against all revolutions in the state, that the property of the clergy, might always be safe, under the name of the church. Upon this ground, the clergy have grafted themselves, upon every state in Europe. And as they are plants that will grow in any soil, they have taken such deep root, that scarce any state, except Holland, hath been so unfriendly to their vegetation, as to exclude them from having some share in government; though they have no more business with ours, as a separate body of men, than the company of apothecaries, or parish clerks.

It is surprising that mankind should ever be so inconsiderate, as to suffer any religious order of men, to form an independent interest in the state; which must, from the engrossing principles, upon which it is founded, be evidently destructive to the society to which it belongs. For while the church was continually acquiring riches, and power, and never discharging either, it must follow, that the clergy would, in a short time, be the richest, and most powerful body of men in any state, where they were thus established. Such was the situation, of this kingdom, at the death of Edward the confessor ;
when

when England may be said to be governed by the power, and influence of the clergy. And we shall see, presently, how these shepherds betrayed their flocks, and surrendered them to the Norman tyranny.

Under all tyranny, whether of kings, or priests, or both, it is the people, who are to be made the sacrifice ; it is the people, who are to be plundered of their property ; it is the people, who are to wear the yoke of slavery ; it is they, who are to be made hewers of wood, and drawers of water. But so long as the English government continued upon the original principles, upon which it was founded ; and the people annually exercised, their elective power ; so long it was out of the power either of the king, or the clergy, to commit any acts of violence with impunity.

Indeed the clergy might recommend, and the people might consent to many things, that were wrong, and even ruinous in their consequences ; yet the latter had always, in their own hand, a correcting remedy for all their errors. It was this correcting power, in the people, that hung, like a millstone, over the pride, and riches, of the clergy ; and made them apprehensive that, at some time or other, it would crush them to pieces ; and put an end to all their schemes of authority, riches, and grandeur.

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The parliament, in the reign of Edward the confessor, had given such a specimen of their correcting power, as was enough to shake the foundation of the papal chair ; and that was by banishing Robert, archbishop of Canterbury, as an incendiary, and fomentor of divisions between the king, and his subjects ; and appointing, one Stigand, archbishop in his room. By this they saw, there was only one way to avoid the danger, and preserve, and extend their tyranny over the people ; and that was, to destroy the elective power, and establish an arbitrary government, in the state. This they were so bold as to attempt, and so happy as to see effected, by William the bastard, duke of Normandy ; who, in the year one thousand and sixty six, put an end to the Saxon mode of government, which had subsisted for six hundred years, from its first establishment ; the particulars of which transaction, we shall enumerate in the following section.

S E C T. II.

What is commonly called the conquest, by William the first.

WE are now come to that period, of the English history, which contaminated the purity of the English constitution, or mode of government,

ment, with a despotick spirit; which time has not been able, totally, to eradicate.

After the death of Edward the confessor, there were two candidates for the crown of England, which always had been elective, and continued so to this last Saxon king. The one was Harold, an Englishman of great natural abilities, much merit, and vastly beloved by the people; who had been elected chief magistrate of three shires, Kent, Suffex, and Surrey, at the death of his father earl Goodwin; who, before him, had held the same offices.

The other was William the bastard, duke of Normandy, who was a man of a warlike genius, and a very powerful prince; whose dominions being situated opposite to our coast, rendered it more convenient for him, than for any other prince, to transport an army into England, and consequently to enslave the nation. For which reason, no one, who was a friend to his country, would ever think of electing a man, who would be so notoriously dangerous to its laws, liberty, and constitution.

Indeed the dangerous consequence of his election was so apparent, that, though the clergy had marked William for their man, yet they could not hinder the choice of Harold; and therefore he was elect-
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ed, king of England, by the wittena-gemot, or parliament; and was accordingly crowned the next day, by the archbishop of York.

The pope and William, finding themselves frustrated, in all their previous intrigues and secret cabals, in obtaining the crown of England for the latter, were resolved to attempt it by open force; but the states of Normandy, having refused the duke an aid of money for the undertaking, he was obliged to have recourse to some other means for assistance. The pope, therefore, was now obliged to pull off the mask, and declare openly against England, and make a crusading business of it; which was done with a view to encourage individuals, to engage in the enterprise. And that all men might more plainly see, that William was the champion of the church, he first made the duke a present of a consecrated standard, with a golden *agnus dei*, and one of saint Peter's hairs; and then solemnly excommunicated every man that should oppose him.

The duke, on his part, offered the lands of England as a prize to be fought for, and to be divided amongst all those that should assist him in the conquest; by which means he engaged, not only great numbers of his own subjects, but many of his neighbours, to assist him. Thus the duke of Normandy was enabled to fit out
a fleet,

a fleet, and army, with which he invaded England; and, on the 14th of October 1066, was fought the ever memorable battle of Hastings, in which the English army was routed, and king Harold slain; which flung the whole nation into confusion, and soon after procured the crown of England to William.

Morcar and Edwin, two brave officers who distinguished themselves all that day in battle, retired in the night, with the broken remains of the army, to London; in hopes to recover the people from their fright and consternation, and to apply some remedy to so pressing an evil. Historians observe, that, in all probability, they would have succeeded, if the treacherous behaviour of the clergy, in London, had not broken all their measures, by secretly caballing amongst the people. These two officers, and some others who were zealous friends to the liberty of their country, assembled the people; and represented to them, that the first thing to be done, was to come out of that state of anarchy, and confusion they were in, and immediately to elect some person to the chief command. That Edgar Atheling was upon the spot, and one of the family of their ancient kings; and that no man could have any just objection, against his advancement to the throne. That as soon as he should be proclaimed king, he would send orders, to all parts of the

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kingdom, to levy troops; and that the duke of Normandy should soon find, to his cost, that the gaining a single battle, was not sufficient to render him master of the kingdom. And to spirit up the people the more to action, they put them in mind how they had defended their country, inch by inch, against the Danes, for a great many years; and had, at last, drove them out of the kingdom; and that there was no doubt but they would soon do the same, by this new invader.

The clergy knew this was the critical moment, and that if they could but keep things in confusion, a little longer, their business was done, and therefore they openly opposed every proposal of resistance. The declaration of the pope, in favour of William, was sufficient to induce all the clergy, then in London, with the two archbishops at their head, to cabal amongst the people, in order to hinder Edgar's election; which they so effectually did, that Morcar and Edwin, seeing every proposal overruled, and despairing of success, retired into the north to take their own measures.

They were no sooner gone, than the archbishop of Canterbury, the archbishop of York, the bishop of Winchester, and the clergy about
London,

London, and some say, prince Edgar himself (by their persuasion) went to the duke at Berkhamstead, and there swore fealty to him ; as if he had been already their lawful sovereign. Hence we may justly say, that the lives, liberty, and property, of the people of England, were surrendered into the hands of the Normans, by the baneful influence of the clergy. For the city of London, following the example of the clergy, surrendered, and afterwards, the whole kingdom, without any further resistance.

Thus William the first, obtained the crown of England, by the favour of the clergy, and not by the power of his sword, as, they would seem to intimate, by his surname of conqueror. A name imposed upon him, after his death, by the clergy, in order to screen the infamy of their own actions from posterity ; that future generations might ascribe, the miserable state of the people, to the conquest of William, and not to the dark treachery of a body of men, who had, under a mask of religion, abused every trust of confidence reposed in them ; and betrayed their flocks, bound hand and foot, like sheep to the slaughter.

From this time, civil and religious tyranny, walked hand in hand, two monsters, till then, unknown in England ; which are, equally, the common enemies to mankind, and have, at all times

times, united against every principle both of civil and religious liberty. This is the true origin, of the alliance between church and state, so much contended for by some of our ecclesiasticks; who have renounced the penances of popery, but would fain retain both its pride, and its power.

After the coronation of William the first was well over, in the year 1066, it was hinted to the cities, boroughs, and other incorporated bodies of men in the rural tithings, that a present to their new king would be acceptable; and the king, in a proclamation, confirmed the ancient rights, and privileges of the people. I only mention this to show, that there were, incorporated bodies of men, at that time; and that their incorporated rights were acknowledged, by William himself, before any bodies of men were incorporated by the charters of the succeeding kings.

In the year 1068, the king openly declared, the tyrannical principles upon which he intended to govern the kingdom, by an act which could not be mistaken. And that was by imposing, by his own authority, without the consent of parliament, or any body of men elected by the people, what the ancient historians call an intolerable tribute; which some have confounded with a tax, called *danegeld*; however, it is no matter what they call it, it was taxing the subject, without the consent of parliament. From this time, all confidence vanished,

vanished, between the king and the English ; who now saw plainly they had no security, either for their persons, or property.

And they were not mistaken ; for, soon after, the king seized upon the estates, of such as he had reason to suspect, and imprisoned their persons at his pleasure. And, in order to keep the nation more in subjection to his will, he built castles in many parts of the country, and garrisoned them with Norman soldiers. After this, he obliged them to deliver up all their arms, and forbade them the use of fire and candle, after the evening bell had rung eight o'clock. Yet, notwithstanding all these precautions, the king could not prevent many conspiracies, and some attempts to recover their liberty ; but which, being frustrated, only served to make their condition the more intolerable.

The king, at first, seems to have been inclined to draw a line between the sovereign authority in the state, and the internal police of the country. With regard to the first, he was resolved, by an arbitrary power, to keep it in his own hands, and make his edicts carry the force of law, without any regard to the elective power in the Saxon parliaments, which he was determined to abolish, and not to suffer them to meet and control his acts of state. So that, by this means, he usurped an
absolute

absolute power over the lives, and property of his subjects; by not permitting the house of commons; or, as it was then called, the common council, to assemble; which was the true cause of the contest between the king, and his people. But with respect to the internal police of the country, so far as relates to the keeping of the peace, and doing justice between man and man; I apprehend he had some intention of continuing it upon the old Saxon foundation, as it was vested by them in the people of the respective tithings. However, the only reason I have to suppose this is, because he did not destroy the elective power of the people, in the towns and rural tithings, till the year 1070; which was four years after his coronation.

The king was a man of too much penetration not to see, after what had happened, that by continuing the towns, and rural divisions incorporated, he continued so many enemies incorporated, and united their strength against himself; except he could have persuaded the English, to have been satisfied to walk in a narrower circle, and confine themselves merely to keep the peace in their respective divisions. But when the king found the English were calling in foreign aid, and especially the Danes, who had great pretensions to the crown and much natural interest in the country, he plainly saw that all temporizing measures were at an end; and therefore resolved, in the year 1070, to

to destroy the elective power, of the people, root and branch ; and consequently to dissolve all incorporated bodies.

For the better execution of this design, he previously put his garrisons, and fortifications, in a proper state of offence and defence ; and, at the same time, had an army of Normans in the field, ready to march against all disobedient opposition. He then published an absolute order, forbidding all elections in every town, and rural division in the kingdom. This was putting his finger upon the great artery of the constitution, and stopping the circulation of all power arising from the Saxon principles of government ; which, in a moment, extinguished all appearance, of the life of liberty, in this land. This action is what historians would endeavour to hide, by slightly passing it over, with only observing, that he suddenly removed the English from such posts, as gave them any power, and influence over their countrymen.

As all officers, and authority, in the interior departments of the state, sprung from the people, it is very evident that, by their elective power being now abolished, the names of the offices, and officers, proceeding from thence, must likewise be abolished. For it is acknowledged, by all authors, that, from this time, we hear no more
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of the Saxon *ealdormen*, and *thanes*, which were titles of office, and not titles of honour. But, from this period, there appeared a new order of men, with new authority, derived from the king; which were entitled counts, viscounts, barons, vavasours, esquires, and others; names taken from the Norman, and French tongue.

It was out of these orders of men, whose titles were titles of honour, and not titles of office, to which we must add the clergy, that the king formed his assistants, in the execution of his new plan of government; under which England was held in slavery, and bondage, for one hundred and forty seven years. He placed the legislative authority in himself, and a great council, composed of the dignified clergy, and the nobility of the realm (the latter of which were of his own creation), all subject to his own summons; and he generally assembled this great council, three times a year; at Christmas, Easter, and Whitsuntide. And from many circumstances, it appears, that the king admitted a right, in this body of men, to consent to such laws, as should be binding upon the people.

Whoever gives himself a moment's reflection, upon the nature of this great council, must see that, though the king created all the nobility of the realm, yet the pope nominated all the dignified clergy to their bishopricks, abbeyes, and other benefices; which gave them a title to their seats,
in

the legislative authority. And consequently the Roman pontiff, a foreigner at the head of the hierarchy, had perhaps more influence in making the laws, of England, than the king and all his temporal lords; therefore, it is no wonder, that the clergy should incline those laws, to pillage the people, in the manner they did, for so many ages.

As to the rest of the business of the nation, it was under his own direction; he appointed all the officers that were to preside over the people, both civil and military; and nominated his Norman counts, to be governors over the shires; from whence they took the name of counties. A count was then, the highest title of honour, in England; for the king himself being only a duke, in Normandy, would not admit of any title equal to himself.

It was the custom of the Saxons to set apart, a quantity of land, for the publick service; which was rented out, and accounted for, in the department to which it belonged. The crown, under the Saxon kings, had many of these lands, which were applied to pay the ordinary expence of government; and I apprehend it to have been the same in the shires, to bear the expence of the shire-militia, and other exigences, of the internal police, of the shires. From whence it came, that, at the dissolution of the old government of the

H shires,

shires, such a quantity of land fell into the hands of the king, that he hardly knew how to dispose of it. This land he divided into manors, and baronies, and gave them away to his Norman nobility, gentry, and clergy, who held them, as fiefs, of the crown; from whence come our court-barons, manor-courts, and court-leets. As to the internal police of the country, he placed it in the hands of officers, of his own making.

Thus king William the first, destroyed all the elective power, constitutionally placed in the people of England, and reversed the Saxon form of government, which was founded upon the common rights of mankind, and established an arbitrary power, in himself; consequently, from this time, all power, authority, and honour in the state, descended from the king, and the lives and property of the subject were at his mercy. With this despotick rule, he continued to govern England, for the space of twenty one years, when he died; and left the crown by his will, to his second son William, who succeeded him by the name of William the second; and ascended the throne, in the year 1087.

CHAPTER IV.

From William the second to the restoration of the constitution, by the great charter, in the reign of Henry the third.

WILLIAM the second was hated, both by the Normans and English, as a perfect brute in his behaviour, and manners. It is remarked, that he governed himself neither by religion, honour, nor honesty. Such a character as this would not contribute much to the restoration of a government, founded upon the common rights of mankind; and therefore the English were very happy, in the fortunate arrow of Sir Walter Tyrrel, who shot him through the heart, at a hunting match; and thus relieved the world of his tyranny, after a reign of twelve years.

It was happy for England, that Henry the first, who succeeded his brother William, found himself in a very critical situation, between his desire of having a crown, and the means of obtaining it. He was the youngest son of William the first, and born in England; which was his only pretension to the crown, in opposition to his older brother

Robert, who was absent in the holy land ; which gave Henry a great advantage over him.

But Henry's best title was the favour of the people ; whom he assembled together (*populo universo*) as say several historians. In this assembly he promised to abolish all rigorous laws, made by his father and brother ; that he would restore the laws, of Edward the confessor ; in short, he promised to restore the form of government, as established under the Saxon-monarchy. This declaration met with general applause, and gained him the support of the people, which he wanted, and this is what some call the election of Henry the first. However, be that as it will, with the support of the people, he overruled all opposition ; and was crowned, king of England, three days after the death of his brother William.

Though Henry had, by this means, obtained the crown, yet he was far from being secure in the possession of it ; since he well knew his brother Robert, would be both able, and willing, to contest it by the sword, whenever he arrived at his Norman dominions. And therefore, he was under a necessity to fortify himself, by obtaining the affections of all his English subjects ; and convincing them, by undoubted facts, that he intended to govern the kingdom, agreeably to his former declaration.

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To manifest this his intention, he assembled together the great council (as all agree) which was established by his father ; and, some say, the commons came to this assembly ; which is not unlikely, though uncertain. However, it was in this assembly, that he renounced all unjust prerogatives, usurped by the two late kings ; abolished many grievous taxes ; and restored the laws of king Edward the confessor, as the law of the land ; which secured, to the people, their persons, and property. This was peculiarly advantageous to the Normans, who thereby gained a title, to their estates, by law ; and no longer held them, at the pleasure of the king ; it also united the English, and Normans, in one point of interest ; which afterwards contributed much, to the restoration of the English constitution.

It is a maxim with all tyrants, to consider every thing, they have a power to take, as their own by right. And we may observe, that most of our kings, after what is commonly called the conquest, talk in that style ; for, in their written charters, they give, and grant, as a new thing, what the people of England had enjoyed for six hundred years before. For what they grant in writing refers plainly, by their own words, to the ancient custom of the people ; and therefore how it came to pass, that those written charters could be understood, by any man, to be the origin of our rights,

rights, and privileges, appears strange to me, and, indeed, seems too great an absurdity to mention.

When William the first came to the crown, nobody had any concern in the transaction, but the clergy, and the city of London; to whom he promised, in general terms, to preserve the laws and customs, of the church, and of the city of London, in these words: "William, king, greet William, bishop, and Godfrey, their portgreve (or chief magistrate), and all the boroughmen without London: I will that' you enjoy all the laws, and customs, you enjoyed in the days of king Edward."

But Henry the first, did more than promise; for he, in some measure, restored the elective power of the people, within the city of London, as appears by his charter to them in these words: "Know ye that I have granted to my citizens of London, to hold Middlesex to farm for three hundred pounds, upon account to them and their heirs; so that the said citizens, shall place, as sheriff, whom they will of themselves; and shall place whomsoever, or such one as they will of themselves, for keeping of the pleas of the crown, and of the pleading of the same, and none other shall be justice over the same men of London. And further, there shall be no more miskenning
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or misunderstanding) in the Hustings, nor in the folkmote (that is, in the general assembly of the people), nor in any other pleas within the city. And the hustings may sit once a week, that is to say, on Monday."

Henry likewise granted a charter, to the whole kingdom, in which he promises to restore the ancient form of government, with all the rights, franchises, and privileges of the people; which, afterwards, served as the ground work of the great charter of liberties, obtained from king John. But so careful had the enemies, of publick liberty, been to destroy these authentick vouchers, of the freedom and privileges of the English people; that there was only one to be found, in the reign of king John. And what made the recovery of this charter the more valuable was, that it was given voluntarily, by Henry, only thirty-two years after the conquest; when most men, then living, must remember both the loss of their liberties, and his promise to restore the Saxon form of government; which was offered as a condition, for their assistance to Henry, in obtaining the crown. And had England continued a separate kingdom, from Normandy, as it was in the beginning of this reign, in all probability the English constitution would have recovered its ancient purity. However, from this time, the constitution began to revive, and emerge from that load of oppression, that it had laboured

laboured under, for the space of thirty-two years.

In the disputes, for the crown, between Stephen and Matilda, the assistance of the people was absolutely necessary on both sides; and therefore they readily granted charters, to many towns, for the government of themselves, upon their old Saxon principles; by which the elective power of the people was re-established in those towns, which, in time, operated to the great end of restoring the Saxon constitution.

Stephen, who succeeded Henry the first, had a powerful competitor, for the crown, in the person of Matilda, who was descended from our Saxon line of kings, and, as such, had many friends to support her title. And, therefore, Stephen was very liberal in his favours; he confirmed the charter of Henry, and engaged to carry it into execution, whenever, by their assistance, he should be established upon the throne.

Upon this the Barons promised him a conditional support; that they would be faithful to him no longer than he was faithful to his promises, that they had been amused, by promises, from all the kings since the conquest, and therefore they should now take their own measures. And accordingly, they
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fortified their castles, and put themselves in a posture of defence ; so that, in a little time, there were above a thousand fortified castles in the kingdom, which afterwards contributed much to the restoration of the constitution. However, the succeeding wars prevented any further progress, during this reign, in restoring the people to their elective rights.

Henry the second succeeded Stephen to the throne ; and he came to the crown with the approbation of all parties. The hopes of the English were much elevated upon his accession, because he was descended from their ancient kings ; they vainly imagined he would restore to them their old form of government, and re-establish their elective power. But such generous sentiments as these, are seldom known to descend with the posterity of kings. And accordingly, Henry the second contributed nothing to this desirable end ; but left the legislative authority, in the same condition as he found it.

Richard the first, succeeded his father Henry the second, in the throne. He was a prince of such a warlike genius, that it seems to have engrossed the whole man ; and to have excluded all other thoughts, but what might contribute to the gratification of his ruling passion. He had engaged himself, with the king of France, to prosecute

a war against the Saracens, in the holy land, agreeably to the crusading madness of those times; which involved him in an expence which his ordinary revenue was not able to support. This put him upon many expedients of raising money, to execute his enterprize; some of which were very unjust, arbitrary, and impolitick. But what I would chiefly observe is, his sale of every thing that he could part with, or find a purchaser for. We cannot express, his disposition to sell, better, than by his answer to his friends, who advised him against such sales; for he stopped their mouths by telling them, "He would sell the city of London, if he could find a purchaser."

It was under this selling prince that many of our cities, towns, and boroughs, purchased back their old Saxon rights, of being governed by their own magistrates; where they had not done it before. For it had been a frequent practice, after Henry the first, to purchase back sometimes a part, and sometimes the whole of their old Saxon privileges, liberties, and franchises, for a fine to the king; for which the kings, say the historians, were wont to give their charters.

And from hence it comes, that our corporations, hold their rights, by written charters; which were always made by way of grants. In some account which I have seen, of that part of the revenue
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proceeding from fines, the author observes, That as for fines for grants, confirmation of liberties, privileges, franchises, and exemptions, there are numberless instances on the revenue roll. The city of London bought back the privilege of having a mayor, or chief magistrate, of their own electing; and a power of electing two sheriffs to serve for the city of London, and county of Middlesex.

Thus we may see by what means, the cities, and boroughs, recovered by degrees their ancient Saxon government, and became once more little republicks within themselves. For though they had changed the Saxon names of officers, and offices, yet the power and duty were still the same. But as for the rural tithings, or the Saxon country divisions, they were so confounded, and entangled, with the different rights of the baronies, and manors, and other Norman establishments, that they were never able to make the least attempt to recover their old tithing-form of government.

And notwithstanding the towns had advanced thus far in their recovery, yet they were continually in danger of a relapse, from the arbitrary power of the crown; which frequently, forced them to surrender their charters back again, in order to oblige them to purchase anew. So that they had no good security, till they had got possession of their old share of the legislative authority. However, they had, by this time, gained a

strength sufficient to make a stand for their liberty, the first time the perplexed circumstances of the king, afforded them an opportunity ; which presented itself in the following reign.

John, properly furnamed lack-land, brother to Richard the first, succeeded to the throne with a disputed title. And the English did now, what they had never failed to do, at the beginning of every reign since the conquest, insist upon the restoration of their ancient mode of government. And which the kings, on their part, had as often bound themselves, and their posterity, by the most sacred oaths, imprecations; and solemn charters, to restore ; but which they never regarded longer, than while they obtained a power to break them. However the English, by this means, kept up a title to their Saxon privileges, and franchises, and the Norman kings, thereby, acknowledged their title to be just.

There are three things observed as principal events of this kings reign. The first was, his war with the king of France ; the second, his contest with the pope ; and the third, which was his greatest misfortune, his quarrel with his people. By the first, happily for England, he lost all his Norman and French dominions, and with them his support. For these provinces had always, since the conquest, furnished the kings of England with
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a foreign army, to keep the English in obedience, and submission to their tyrannical power; without which, all their pretended right of conquest, would have availed them nothing. By his quarrel with the pope, he lost the benefit of that enthusiastick regard, which the superstition of the people hath generally entertained, for the sentiments of the clergy. For the church, in this case, found it her interest to discharge his subjects from obedience to his person; and exposed him as a prey to all his enemies.

The barons, thought this a proper opportunity, to declare themselves; and therefore sent the king word, that, before they went over with him to the wars in Normandy, they expected he should restore to them their privileges, pursuant to his promises before his coronation. And in an assembly, of the barons, held at London, cardinal Langton informed them, that, before he gave the king absolution, he had caused him to swear that he would restore the church, the nobility, and the commonalty to their rights and privileges. But as difficulties might occur, in the particulars to be required of the king, they might have recourse to a charter, granted by Henry the first, of which he had fortunately found a copy; notwithstanding the pains taken to bury it in oblivion.

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The barons resolved to make this charter, the ground of their demands upon the king; and immediately entered into an association, and bound themselves by an oath, to stand by each other; and use their utmost endeavours, to obtain the re-establishment of their ancient rights; and particularly the elective power of the people. This was the first association that was ever made, in England, in defence of the rights, and privileges of the constitution against the king.

They ordered a committee to attend the king, at London, with a petition, praying the re-establishment of their ancient rights, and privileges. John, in order to gain time, desired they would stay for an answer till the following Easter. As soon as Easter was come, the nobility and gentry met, at Stamford, with a powerful army; in which were two thousand knights, with many horse and foot, armed with divers weapons. The king was, at Oxford, in expectation of their coming; but hearing of their numbers, and posture of defence, did not think fit to expose his person in a conference with them. And, therefore, he sent the Earl of Pembroke to know, what the laws and liberties were which they mentioned in their petition. Upon which they delivered a long memorial of the laws and customs, observed in the times of the Saxon kings; and at the same time, declared, “That, if the king would not confirm them,

them, they were resolved to compel him by force of arms."

John had no sooner read this memorial, but he swore a great oath, and said; "That he would never grant his subjects such liberties, as would make himself a slave." And, for the better security of his person, he retired to the Tower of London. The king's answer convinced the barons, they had nothing to expect but from force; for which they were much better provided than the king. Therefore, having previously concerted measures to get possession of the city of London, they amused the king with the siege of Northampton, and Bedford, till they knew the success of their negotiation in town, and, to their great satisfaction, there arrived, in a few days, an account, that one of the gates of the city was to be put into their hands.

Upon this intelligence, they put themselves in motion; and two forced marches brought them to Aldgate. This gate being opened to them, they entered the city at break of day before the king, who was in the Tower, had the least notice of their approach. The king, finding a general defection, and that, in his present condition, there was no remedy but compliance, sent the Earl of Pembroke to inform the Barons, that he was ready to grant their demands. And, after a short negotiation,

tion, it was agreed, That the king, and the Barons, should meet, on a day prefixed, in a meadow called Runnemed, to conclude this affair.

The day being arrived, the barons came, in great numbers, to the place appointed ; while the king came attended only by five, or six lords. Here the barons tendered, to the king, two charters ; one called the great charter of liberties, or *MAGNA CHARTA* ; and the other the charter of the liberties of the forests. These two charters were then signed by the king, and witnessed by all the lords, spiritual and temporal, then present ; sealed with the great seal, and confirmed by the king's solemn oath. And the king appointed twenty-five barons, and vested them with a power to see these charters duly executed. He likewise granted letters patent, directed to his Sheriffs, empowering them to take the oaths of all his subjects, that they would punctually observe the two charters ; and, if necessary, compel the king himself also to observe them. And lastly ordered, that the barons should keep possession of the city of London ; and that the cardinal, archbishop Langton, who was a great friend to the cause, should keep possession of the tower of London.

The king being heartily mortified, at seeing himself thus stripped of his tyrannical power, retired to the Isle of Wight, with a few followers ;
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that he might, with more secrecy, take proper measures to recover his authority. And, instigated with pride, revenge, malice, and despair, he resolved, rather than submit to restore the ancient constitution, and government, to see England buried under her own ruins. But finding no remedy in himself, having neither men nor money, he chose to follow the example of William the first; and once more offer the lands of England, as a prize, to any adventurers that would fight for them.

To execute this plan, he sent over, some of his followers, into France, Flanders, and Germany; to engage volunteers in his service. He empowered them to offer and make titles, in form, of the confiscated estates of the rebel barons, as he called them. And, in a short time, he had the satisfaction to see, vast numbers arrive from Brabant, Flanders, Normandy, &c. all soldiers of fortune, ready to venture their lives for an estate. He likewise sent his complaints to the pope, and begged the protection of his holy arm. And, as the wicked, tyrannical invaders, of the common rights of mankind, have seldom failed to meet with the protection of the church, the pope absolved John from his oath, annulled the two charters and excommunicated the barons.

The thunders of the church, and the new army of foreigners, from the continent, would undoubtedly have reduced the barons to a very low condition, had they not foreseen the storm, and provided for the danger. The barons applied, to the king of France, for protection, against their enemies; and offered, in return, to set Lewis, the dauphin of France, upon the throne of England; upon condition he would execute the charters, granted by king John, the king of France granted their request; and sent an army, and seven hundred sail of ships, commanded by his son Lewis; which effectually broke all the measures of king John. For finding it impossible for him, to prevent the French from landing, he retired to Winchester without much further resistance; and after wandering about, for some time, upon the eastern coast, fell sick and died; after making his will, and leaving his son Henry heir to his title and dispute.

Henry the third, who was then a minor, of ten years old, and the first infant-king that ever reigned in England, had the good fortune to be governed by the great Earl of Pembroke, who was a man of temper, judgment, courage, and conduct; and Henry's fast friend, and protector.

The Earl saw clearly, that the Barons would never give up their charters; but would defend them, either against Henry, or Lewis the dauphin
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of France, to whom they had offered the crown, which ever, fortune should give them, for their king. The barons had no particular objection to Henry ; their only object was, the restoration of their rights, and privileges, in the establishment of their charters. Hence the sentiments, of each party, being known, there remained little obstruction to an agreement. The barons, on their part, acknowledged Henry to be king of England ; and agreed, to join their forces with his, to drive Lewis out of the kingdom. And the king, on his part, confirmed, and established the charters, of the king his father, to them, and their posterity for ever.

All troubles being happily ended, the English impatiently expected the performance of this agreement ; which was honestly and faithfully executed, by the noble earl. And had he lived, in all probability, it would have been strictly fulfilled. He sent express orders, to all the sheriffs in the kingdom, to see the two charters, of king John, duly observed ; and to punish, with severity, all violaters thereof.

And as the first step, to the effectual execution of these charters, was to restore the elective power of the people ; by summoning what the Saxons called their wittena-gemot, or assembly of the wise men of England ; or, what we now call, the parliament

liament of England. Accordingly, the earl of Pembroke, who was chosen regent of the kingdom, sent letters of summons, to all the barons of the realm singly; and to the cities, boroughs, towns, ports, and freeholders: to elect deputies, to represent them in parliament, agreeable to the direction of the great charter of liberties. Which letters of summons are to be found, at this day, amongst the records in the tower, upon what is called the clause roll, for the year one thousand, two hundred and eighteen. And the annals of Waverly likewise say, That the wise men of England, or parliament, met, at London, after Michaelmas, in the year 1218; and revived the liberties of England, according to the charter of king John.

Thus the people of England, at length, recovered their elective power, in parliament; which they had enjoyed, under their Saxon kings, for six hundred years, before what is called the conquest: after having been held, in cruel slavery, and bondage, for one hundred and forty seven years; that is, from William the first, to the restoration of their elective power, in the second year of the reign of Henry the third.

Which great event ought to be held in commemoration, for ever, by a day of publick thanksgiving, festivity, and joy; as a perpetual memorial,

rial, of that great deliverance. And may the English nobility, and Gentry, be forever inspired with the spirit of our ANCIENT BARONS; and teach their posterity, this one everlasting truth : THAT THE POOR MAN'S ANNUAL ELECTIVE RIGHTS, ARE THE RICH MAN'S BEST SECURITY: a truth which the barons of England, demonstrated by a dear bought experience, of one hundred and forty seven years!

CHAP-

CHAPTER V.

*Some general remarks, concerning the state of things,
after the establishment of the great charter.*

AS I hinted before, I do not mean to attend to the various attempts that were made, to overthrow the restoration of the elective power of the people, in the remainder of the long reign of Henry the third, and several of the succeeding kings. But, after some general reflections, I will proceed, to the reign of Charles the first, and his successors; by which we are more immediately affected.

Notwithstanding the great charter had reduced the power of the crown, within the bounds of a legal authority, and re-established the elective rights of the people; yet there was a vast excess of power still remaining in the crown, which, constitutionally, belonged to the people. For, under the Saxon establishment, the appointment of all the officers, concerned in the internal police of the kingdom, and the militia was in the hands of the people, or their immediate representatives. All which, at the restoration of the constitution, were left in the power of the crown; excepting those towns

towns that had obtained charters, from some of the kings, and purchased back the privilege of being governed by magistrates of their own election.

The vast quantity of land, that had now got into the hands of the crown, being distributed, to the favourites of the king, as fiefs, was a great additional strength to the prerogative. And many places of honour, profit, trust, and power, which had formerly been in the gift of the people, now operated against themselves. We may add to this, that, under the Saxon kings, there were only two superior courts of law, which were both established by Alfred the great, after the union of the seven kingdoms into one. These were the court of common pleas, and the high court of chancery; though perhaps called by other names, and revived with the constitution.

But William the first, established three new courts of law; whose rules, and genius, were better adapted to his arbitrary mode of government. These were the court of king's bench, the court of exchequer, and the spiritual court. These three courts were begot by the tyrannical union of the king, and clergy; and were made the instruments of the arbitrary impositions of both. And though these courts have been much restrained,

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ed, yet they still retain a great deal of that arbitrary spirit, from whence they were engendered. And the clergy, still held their place in the legislative authority, always ready to unite with the crown, to oppose every further attempt, of the people, to recover either their civil or religious liberty.

These numerous sources of power, gave the crown many advantages; which were always employed to counteract the efforts of the parliament. Hence it was with difficulty, that the elective power of the people, was able to stand its ground, against such of our kings as were inclined to establish an arbitrary government; which often involved the kingdom in a civil war, for want of contriving some milder method of restraint than that which was prescribed by the barons, of making war upon the king. For after they had once found, by experience, that oaths would not bind king's, it was in vain to trust them any further.

To remedy this evil, they ought to have established a new mode of assembling the parliament, when the king would not do his duty, in that respect; which is nothing more, than administering the constitution to his people. He should, in that case, be entreated, by earnest petition, of some body of men appointed for that purpose, to assemble his parliament. And if the king, after this, should not issue his writs, in forty days, then
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body of men should be empowered to give orders, to the proper and usual officers in the king's name, to assemble the parliament, which should be as good in law, as if he himself had given the proper orders for so doing. For the whole nation, should not lose the benefit of the constitution, through the obstinacy, or ill judged opinion, of a king ; who shall refuse to execute the duty of his office.

This medium is much more expedient, than a civil war. For all the contests we have had with our kings, have always been with such, as were remarkable for their weakness of understanding, or obstinacy of temper ; and, at the same time, were governed by some traitorous favourites, who persuaded them to act against the interest, both of themselves, and their people ; and therefore a power of this kind, would be very happy for both king, and people. And till some such power as this be established, in our state ; the people of England will be obliged, every now and then, either to have recourse to arms, or to endure many hardships, as often as they shall have the misfortune to be governed by a weak prince ; for it is an hundred to one, but such a king will be governed by a knave. It is an absurdity to suppose that a king, who has a design upon the liberties of the people, will call together a body of men, that he knows would be both able and willing, to counteract his

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designs ; neither would such a king dissolve his parliament, if he chose their continuance, as a mode, to rob the people of their elective rights.

There were two alterations, respecting the elective power of the people, which must be particularly noticed. The first is, that after the restoration, in the reign of Henry the third, many of our boroughs, which used to send members to parliament, were not then incorporated ; and therefore had no chief magistrates to represent them in parliament, as was usual in the Saxon times. And even those that had obtained charters, were never afterwards represented by their chief magistrates ; but both were left at liberty, to elect any other honest, wise men, they thought qualified to execute their trust. So that, from this time, the member of parliament, for a city, or borough, was detached from the chief officer of that city ; but they still continued the principle of electing a new house of commons every year. However this has given some of our modern kings, an opening to introduce a new mode of restraining the elective power of the people ; that is, by continuing parliaments longer than one year.

The second alteration is, that at the restoration of the elective rights of the people, the titles to their election, in the different cities, boroughs, towns, and ports, became various, from a variety

riety of circumstances they found themselves in, at that time ; which unhappily reduced the number of electors ; one of the greatest misfortunes that can befall a state, formed upon the common rights of mankind. The city of Westminster in particular, and all others of the same nature, still retain the true constitutional right of election ; where every resident inhabitant, that pays his shot and bears his lot, is entitled to his election ; and all others are highly injurious to the liberty and constitution of this country, as they expose the electors, to many corrupt practices.

As long as the foreign trade of this nation was confined to the natural productions of the earth, so long the western parts of England, and particularly the county of Cornwall, would be the most rich, flourishing, and populous part of the kingdom ; because of the valuable productions of their mines, and particularly their tin ; for which they had a foreign trade as ancient as the flourishing state of the cities of Tyre, and Sidon, which used to import tin from Cornwall. This I take to be the reason why we find more ancient boroughs, in that county, than in any other. But now that trade hath extended itself, into many branches of commerce, by our manufactories, and other articles of exports ; the people of Cornwall, have lost their superiority in numbers. So that there is now an amazing disproportion, between the num-

ber of their representatives and electors, when compared with any other county in England: which has reduced their boroughs, and others, in the like circumstances, to the ignominious reflection, of being the rotten part of our constitution.

All towns are subject to decay by time, and change of things, such as war, and particularly by trade; which last surprisngly moves the inhabitants from one part of the country to another. By which means, many of our old boroughs are almost deserted by their inhabitants, and are fallen quite into ruin. Some of them, can scarcely be called a village; and others are become the private property of one family, who now nominate perhaps two members to sit in the house of commons; and call such nomination a free election.

Thus the elective power of the people, hath, with the boroughs, been falling into decay, while many of the villages, and some parts of the open country, that used to compose our rural tithings, have risen merely by trade, into great opulence, and magnitude; such as Birmingham, Manchester, Leeds, Wakefield, Halifax, and many others. From all these concurring causes, there is not, perhaps, one man in five thousand, who is now represented in parliament, by a member of his own election.

Religion

Religion hath always had a great influence, in our political disputes ; and therefore we may remark, that after the appearance of Wickliffe, and the promulgation of his doctrines, religion began to take a new face ; and many converts appeared, in England, who zealously defended the doctrines of Wickliffe, against the church of Rome ; and though the church found means to divert the blow, at that time, yet his works helped greatly to prepare the minds of men, to receive the doctrines of Luther, and Calvin ; who gave the fatal stroke to the papal authority, and introduced the reformation into England.

Henry the eight, without any design of altering the established religion, effectually destroyed the papal authority, by seizing all the lands belonging to the religious houses ; which are reported to have amounted to one quarter of all the lands in England. These the king gave, and sold, to his nobility, and gentry ; so that they soon became divided amongst the people. And many are of opinion, that this diffused property operated greatly, in favour of the commons, in the great contest between the elective power of the people, and the prerogative of the crown ; which happened in the reign of Charles the first. And at the same time, he cut off the pope's supremacy ; and his power of nomi-

nomination to such benefices, as gave the possessours a seat in our house of lords, and vested that power in the crown. Thus the pontiff of Rome, lost his influence, upon the legislative authority of England.

CHAP.

CHAPTER VI.

*The reign of Charles the first, to the revolution,
considered.*

SECT. I.

Charles the first.

WE will now enter upon the reign of Charles the first; who had the misfortune to imbibe, in his youth, all the extravagant notions, possessed by his father, of the high authority, and prerogative of kings.

Indeed it is a difficult matter for princes, as they are now educated, to receive any enlarged knowledge of men, or things; or to be well acquainted with truth. For their conversation, with men and books, is so confined, that they generally receive the little knowledge they have, through the corrupted medium of flattering, and self-interested preceptors. And therefore, as they only hear, and see, through other men's ears, and eyes; so they never know the truth, till they come to feel, by woeful experience, the fatal deception that hath been imposed upon their minds. Besides, it
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is observed, that Charles was of a very obstinate, inflexible temper, a narrow genius, and impatient of control, in his ruling passion for power.

His publick character excepted, he had many virtues; he was very temperate, as to wine and women; a good husband; a tender father; and had he not had the misfortune to be a king, was otherwise a good man. But, with respect to government, he had, undoubtedly, a design to render himself absolute master of the kingdom, and to establish an arbitrary power in the state; without any regard to the law of the land, the elective power of the people, or the constitution of the kingdom; as appears by numberless instances when ever they came in competition, with what he fancied his prerogative royal.

King Charles either could not, or would not distinguish, between the executive power, which our constitution has lodged in the crown, and the supreme power, which our constitution hath lodged in the law of the land, and no where else. The executive authority, is the true prerogative of the king; and prescribes the ultimate limits of his power. Whatever power therefore he may use, that is not of this executive genius, is out of the line of his province; and must either infringe upon the established law of the land, or invade the rights and privileges of his parliament; whose right of appro-

approbation, is always previous to his right of action.

Amongst the various duties, of the king, or chief magistrate, the principal, is that of administering the constitution, to the people, in calling a new parliament every year; or, at least every time he wants a new supply; and dissolving his parliament at the expiration of every year. The prerogation of parliaments, hath been grafted into the prerogative of the crown, though formerly unknown to the constitution: but hath been used, in modern times, where the case required to have two sessions in one year, in order to gain a recess for a short period; but seldom or never, to continue the same parliament, longer than one year. However, as tyranny is always fertile in inventions, it hath since been made an instrument, to subvert the elective power of the people; and reduce it to a meer shadow. We shall see, the application of this doctrine, in the following history.

The calling, dissolving, and proroguing of parliaments, have been the points of contest that have engaged several of our kings, who, being cursed with the arbitrary spirit of Charles, have endeavoured to destroy or render useless, the elective power of the people. Charles the first, ought to have remembered the fate of Edward the second, and Richard the second; who, both of them, lost

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their crowns, and died a most lamentable death, for encroaching upon the liberties of the people, and the rights, and privileges of parliament. Not to mention several other kings, whose reigns were rendered inglorious, and their lives miserable, by the same means.

The principles of Charles, and his council, respecting the royal authority, were very well known, to his people, before he ascended the throne of his father. He was of opinion, that parliaments had their original being, merely from the concessions of former kings: that it was in his power to revoke those concessions, and govern without parliaments, whenever he pleased: that his prerogative was above the ancient laws, and customs of the realm: and, that those laws, were only meant to bind his subjects, and not him. The plain consequence of these principles was, that he was absolute master of the lives, and fortunes, of his subjects; and might dispose of them, agreeable to his will and pleasure.

With these sentiments, he met his first parliament, on the 18th of June, 1625; of whom he demanded a supply for the recovery of the Palatinate, and the prosecution of a war with Spain. The two houses of parliament did not seem much affected with his wants, seeing they immediately fell upon the religious grievances of the nation; and
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both joined in a petition to the king, setting forth those grievances, and method of redress. And, at the same time, the house of commons called to their bar, Mr. Richard Montague, one of the king's chaplains, for writing a book called, "A Gag for a new Gospel".

The king was much offended with their conduct; because he pretended the calling one of his chaplains to the bar of their house, was an encroachment upon his royal prerogative. However they voted the king two subsidies, and then returned upon other matters of grievance, relating to the misapplication of the publick money, and the bad conduct of the duke of Buckingham. In these they spent more time than the king's patience could afford them, without any further mention of the money, which he expected for the support of the war. And therefore he sent for both houses, and, in a speech, represented to them the necessity of granting him a large supply. But the commons, being returned to their house, proceeded to examine grievances, without any regard to the king's speech. However, they soon gave the king a full information of what he had to expect, by a vote of the house, in which they resolved, That religion should have the first place in their debates; the safety of the kingdom the next; and the supply the last.

The king, seeing what course the commons were taking, was extremely offended, and deemed it a manifest affront, and contempt, of his royal prerogative, thus to disregard his wants, and presume openly to attack his favourite, and ministers, or rather himself, under their names; and, at the same time, despairing to receive a speedy supply, he determined to dissolve them. The commons, having some notice of his design, hastily drew up a declaration; wherein they express their loyalty to the king, their resolution to redress the grievances of the realm, and, in due time, to afford his majesty all necessary supply, both for the present, and all other his just occasions. The king then dissolved this his first parliament, which had only sat three weeks. But the transactions of that parliament, clearly demonstrate the spirit which had taken possession, of both sides, from the beginning; for the king was resolved he would not redress the grievances of the people, and the commons were resolved he should have no money without it.

On this power of granting supplies, for the service of the state, depends the constitutional security of the people, in confining the executive power, lodged in the crown, within the limits of its own sphere; so that it may operate only for the good of the state. And the reality of this good, is not to be determined, by the opinion of the king, but by the opinion of the two houses of parliament

ment; who may, or may not support the actions, or opinion of the king, according as they shall find them to be well, or ill founded. When any matter comes to be sifted, by two such incorrupted bodies of men, as our house of lords and commons ought to be; where every object of debate is so thoroughly canvassed, taken to pieces, considered, examined, and re-examined, by five or six hundred separate men; their determination carries with it such a weight of authority, and probability of truth, that their opinion is not to be counteracted by the opinion of the king.

And it is happy for us, that our constitution is so formed, as to oblige the king to take the opinion of this body of men, and submit his conduct to their examination. For the king, being in the constant possession of the executive power of the state his very office is creative of wants, which he himself cannot supply. And though a king of England may, for a time, like Charles the first, by illegal, and unconstitutional means, squeeze out of his subjects a narrow support, for his present convenience; yet he never can put his kingdom into a state of proper offence, and defence, So that the first extraordinary emergency will, by the mere dint of necessity, constrain him to call a parliament; and give his people an opportunity, to redress their grievances, under a bad administration,

tion, and, to shew their gratitude, under a good one.

Let us now return to the thread of our history. The king having lost the assistance of his people, by dissolving his parliament, found no better way to supply his want of money, than by extorting, from some of his subjects, under the name of a loan, as much money as they were taxed at, by former parliaments; which was soon spent, in a fruitless expedition, to the coast of Spain. And this brought on a second necessity, to call a new parliament. But, in order to exclude the most able men, or, at least, such as had given him the most trouble in the last, he ordered them to be appointed sheriffs; that they might not be elected members. However, in that, he was mistaken: for those popular members were elected for other places, and the parliament met the 6th of February, 1626; and was entirely of the same sentiments with the old one.

In order to examine things, with more clearness, they appointed three committees; one for secret affairs, another for grievances, and a third for religion; and these committees continued to prepare their several reports, and the house to receive the same, notwithstanding the king's application for money, to carry on the war; which, indeed, was the sole reason of his calling them together

together. And therefore he sent a sharp letter, to the house of commons, with five articles of expence; and desired to know, without further delay, what they intended to give him. In order to satisfy the king, in this particular, they unanimously voted him four subsidies, and three fifteenths; and by this vote, which was only declarative of their intentions, left it in the power of the king, to have it or not have it, as he should redress, or not redress their grievances.

The king saw, with a longing eye, this golden apple hung up, by a vote of the house of commons, to his full view; but not within his reach. And he perfectly understood the motives, of the house, for so doing; as it was precisely the point of difficulty, put upon him by the last parliament. And therefore he sent, for the two houses, to Whitehall, as he says, “To show them their errors”. And in a speech, partly delivered by himself and partly by the lord keeper, we may find the true sentiments of the king concerning parliaments. In the introduction, to the lord keeper’s speech, it is laid down as a principle, That the house of lords, and house of commons are only the king’s general council; and ought to be confined within the limits of a council. To whom he says, “That no king was ever more jealous of his honour, or more sensible of the neglect, or contempt of his royal rights, which his majesty will

will by no means suffer to be violated, by any pretended colour of parliamentary liberty; however, that his majesty doth not forget, that the parliament is his council, and ought to have the liberty of a council. But his Majesty understands the difference between counselling and controlling; and between liberty, and the abuse of liberty."

This being laid down, as a general doctrine; he proceeds to give some particular instances, where they had transgressed the limits of a council, saying: "That they had not corrected, some members of their house, for speaking disrespectfully of his ministers, and government; though his majesty had commanded them so to do. That they had been enquiring after articles of accusation against the duke of Buckingham; which he would not suffer to be done to his most menial servant. That they had suffered the greatest council of state to be censured in their house. That they had suffered his government to be paralleld with times of the most exception. That their committees had presumed to examine the letters of secretaries of state, and his own. That they had sent a general warrant to his signet office to examine records, books, and private notes, which were made for his majesty's service. That they had not given his majesty a supply, equal to the estimate of expence that had been laid before them. That they had employed only two days, in twelve, about the supply, while their
inquisition,

inquisition, against his majesty's directions, had proceeded day by day". And therefore, the lord keeper said, "His majesty commandeth, that you go together, and, by Saturday next, return your final answer, what further supply you will add; and that without condition, either directly or indirectly. And if you do not, his majesty cannot expect a supply this way, nor suffer you to sit longer together. And further, his majesty desires you to remember, that parliaments are altogether in his power, both in their calling, sitting, and dissolution. Therefore, as he finds the fruits of them good, or evil, they are to continue, or not to be".

This speech, partly spoke by the king, and partly by the lord keeper, is grounded upon doctrines, which plainly reduce parliaments within the narrow sphere, of determining only the mode, and manner of raising the supplies. For if the parliament were only the king's great council, they had no right to give their opinion in any matter, in which the king did not ask their advice. This, at once, cut off all their power of judging, and debating upon any subject, in the administration of government, in which they thought the people aggrieved, either by the king, or his ministers. And with respect to the supplies, he was of opinion, that he had, at any time, a prerogative right to command what he wanted; as being the only judge of the

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necessity :

necessity: and if the house of commons would not grant him the supplies he requested, that he might, constitutionally, by any other means, take them. So that the parliament had no other business, in this matter, than to prescribe the mode, or manner of levying the money, upon the people.

This doctrine, of the king, was so heterogenous to the first principles of our constitution, that it can only be paralleled in the despotick times of William the conqueror; from whence he must certainly have taken his political creed. Therefore it is no wonder that the parliament, and particularly the commons, differed in their opinions from the king, concerning the authority of their house. For they did not consider themselves as the general council of William the conqueror, in which there was no elective body of men whatever, but they justly considered themselves, as the Saxon wittena-gemot, or general assembly of the estates of the kingdom. They were the great council of the nation, elected by the people at large, (and not appointed by the king) to consult their interest only. The parliament of England is the mind of the same body, of which the king is the hand; and contains all the power, and authority, of the Saxon-wittena-gemot, under Alfred the great.

These

These two widely different opinions, of the king and house of commons, strictly adhered to on both sides, could never be determined but by the sword. However, we will still continue to pursue the thread of the history, just so far as to touch upon some of the principal points of contest, till the dispute ripened into an actual war. By which we shall be able to observe, what strength there was in the constitution, to prevent the arbitrary intention of the king; and what means he found, in his prerogative, to furnish himself with money, without parliaments; and likewise how these means failed him, and how he was obliged, to return to the constitutional mode of supply, after all.

The king continued to attack, and the commons to defend their rights and privileges. The articles of impeachment, against the duke of Buckingham, gave both sides an opportunity to show their spirit. Sir Dudley Diggs, and sir John Elliot (two members appointed, by the commons, to manage the impeachment against the duke) had so warmly maintained the charge, by some expressions of aggravation which were falsely reported to his majesty, that he ordered them both into custody, and sent them to the tower.

This alarming attack, upon the privileges of parliament, raised such a concourse of tumultuous conceptions, in the minds of the members, as are

frequently effected by some dangerous surprize, and produced a total silence in the house; which the court-party called a sudden silence. However this silence did not last long. For they soon resolved to justify their members, and demand their releasement; which they did so effectually, that the king, seeing no way to support what he had done, was obliged to discharge his prisoners. About this time, the house of lords seem to have forgot their own dignity and importance; till they were stimulated to it by the conduct of the house of commons. For the king having before imprisoned Lord Arundel, for the like crime as that of Diggs and Elliot, the lords now obtained the release of their member also.

This conduct of the king, instead of intimidating the house of commons, only served to make them the more inflexibly fixed upon their point, not to grant him one penny, till he had redressed their grievances. And he, rather than grant their request, chose to lose the money; and, accordingly, dissolved the parliament on the 15th of June, 1626.

The king, now finding himself involved in a great expence, by the war, and no supply from his parliament; had recourse to such expedients as he thought he found in his prerogative, to supply himself with money, without the assistance of par-

parliament. The first, was a commission directed to the archbishop of York, and others, to compound with popish recusants for all forfeitures. The second, was a grant of his crown-lands, in fee-farm. The third, was a loan from every peer, of a certain sum of money, for the defence of the kingdom. He also attempted the same thing upon the city of London, but was refused. The fourth, was an imposition upon several ports, and maritime counties; to furnish, and send out a certain number of ships. The fifth, was an order that tonnage, and poundage, should be strictly collected. The sixth, was a tax, under the name of a general loan; rated according as every man was assessed, in the rolls of the last subsidy.

The methods he made use of, to enforce these impositions were various. He appointed venal and corrupt judges, who refused to administer the law, for the relief of the subject; by which all access to the common law of the land, for relief, was barred. Upon some he quartered soldiers; others he impressed for soldiers, and sent them into foreign countries. The gentlemen he ordered into close confinement, and imprisoned them in distant counties from home; by the arbitrary authority of the council, who determined all matters relating to the revenue, and his prerogative. At the same
time

time he ordered the lord lieutenants, of the counties, to embody the militia; to keep down any risings, or insurrections that might happen upon these illegal proceedings. To these we may add, the kind assistance of the clergy. One of them said, "That the king was not bound to observe the laws of the realm; that he had a right, by his royal will and command, to impose taxes without the common consent of parliament; and that the subjects were bound, to pay those taxes, upon pain of eternal damnation."

Notwithstanding this formidable apparatus, the king could not bring his matters to bear. The people would not pay, without actual force; which was almost impossible to be exercised upon them all in general. And some gentlemen sustained these shocks, with the greatest firmness; and chose rather to suffer many hardships, than submit to such gross impositions. All which, caused such delays, and obstructions, that the king could not proceed; and therefore was obliged, by mere dint of necessity, again to submit to the constitution, and to call a parliament; which met on the 17th of March, 1628.

The king, in his speech, told them to this effect: That he had called them together to obtain a supply only; and that he chose to have it in the old way, as the best, though not the only way.
That

That this supply must be neither too little, nor too late. That they must be quick in their motions, or necessity would oblige him to make use of other means, which God had put into his hands. And, in short, that there was no time to talk about it, but to do it.

The commons, being returned to their house, began to examine the grievances of the nation ; in which several members distinguished themselves, by a lively, and pathetick description, of the principles of the court, and the conduct of the administration. Wherein they say : “ It is publickly preached, in our pulpits, that all we have is the king’s, *jure divino*. They have introduced a privy-council, at once ravishing the spheres of ancient government. They imprison us without bail, or bond ; and have destroyed the root of all property. Who will give subsidies, when the king can take what he will, when he will, and from whom he will. O improvident ancestors ! O unwise forefathers ! to be so curious in providing for the quiet possession of our lands, and liberties of parliament ; and to neglect our persons, and bodies, and to let them die in prison, and that, *durante bene placito*, remediless ! if this be law, what do we talk of our liberties, why do we trouble ourselves with the disputes of law, franchises, or property ; what may a man call his, if not liberty ?

After

After which they came to four resolutions: First, "That no freeman ought to be imprisoned by command of the king, privy-council, or any other, unless some lawful cause be expressed, in the warrant of commitment. Secondly, that the writ of *habeas corpus* should not be denied to any prisoner, he praying the same. Thirdly, that, no lawful cause appearing for his detainer, he should be discharged, or admitted to bail. Fourthly, that it is an undoubted right of every freeman, that he have an absolute property in his goods, and estate; that no tax, toll, loan, or benevolence, ought to be commanded, or levied by the king, or any of his ministers, without common consent by act of parliament."

The commons then unanimously voted the king five subsidies, and, at the same time, resolved that the supply, and grievances, should go hand in hand. For this purpose, they began to prepare a list of their grievances, which they intended to present to the king, by way of petition; but, upon better consideration, they changed into the well-known BILL OF RIGHTS. Upon the finishing of which, the commons were so intent, that they would hear of no other business till that was completed; and upon this they fixed themselves as upon a rock.

Thus,

Thus, with the Bill of Rights in one hand, and the supply in the other, they stood firm against all artifice, persuasions, threatenings, and promises, both of the king, court-party, and house of lords, who would gladly have persuaded them to have introduced some saving clause; but were never able to move them, from the ground they stood upon. The king, seeing no possible way to avoid this blow, resolved at last to pass the bill. And, accordingly, on the 7th of June 1628, he came to the house of lords, and gave a full, and satisfactory answer, to the Bill of Rights, in full parliament. And now the commons, on their part, gave him the supply they had already voted.

Having finished this matter, to their liking, they resolved to punish the duke of Buckingham, and some others, who were the acting instruments in the late illegal transactions. In which business they had proceeded to some length, when the king, suddenly came to the house of lords, and put an end to their sessions, by prorogation. It was in the recess of this parliament, that the lucky hand of John Felton, gave the duke of Buckingham a blow, that relieved, the house of commons, from any further trouble about him.

The parliament met again, on the 10th of January, 1629; and immediately took into con-
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sideration,

fideration, the complaints of some merchants whose goods had been seized; and who afterwards had been fined in the star-chamber, for refusing to pay tonnage, and poundage, being contrary to law, and not granted by act of parliament; and in exprefs contradiction to the Bill of Rights. This created a dispute, between the king and house of commons, which ended in the dissolution of the parliament: after having first kept the speaker in the chair, by violence, which occasioned great confusion, tumult, and blows, till Sir John Elliot drew up a protest, wherein, among other things, it is said, “That whoever shall advise the taking of tonnage, and poundage, not being granted by parliament, or that shall be an actor, or instrument therein, shall be deemed a capital enemy to the kingdom, and commonwealth.”

The next day, after the dissolution of the parliament, warrants were issued out of the council-chamber, for apprehending nine of the leading members, and three of them were sent prisoners to the tower; and afterwards condemned, in the king's bench, to be imprisoned during the king's pleasure, and severely fined. After this, the king resolved to call no more parliaments, which he always hated, and used to call them a many headed monster; and never thought himself safe so long as they were sitting. However he had one true opinion of them, though oddly expressed;
he,

He, said “ They were of the nature of cats, that always grow cursed, with keeping.”

But to return : the king being resolved to call no more parliaments, was, therefore, obliged to provide some other means of supply. Lord Clarendon says, many of these were unjust, many ridiculous, many scandalous, and all very grievous. But his chief dependance, for a regular supply, was a tax upon all his subjects, under the name of ship-money. The great obstruction to the execution of his design, was the parliament, and the law. The first he had put out of his way, by resolving to call no more ; and now the last was to be tried upon the point of ship-money. And, therefore, to justify his pretensions, he put a case, merely within the verge of a possibility ; grounded upon his duty as king, and guardian of the realm ; “ That as he was to take care of the commonwealth, under all points of necessity, whether he himself was not the sole judge of that necessity ; and when, and how this danger was to be prevented, and avoided ?”

If such a necessity as this could ever have been pleaded, in this kingdom, with any appearance of justice, it was at the time of the invasion, by the Danes, in the reign of Alfred the great, which was this : Alfred found, by repeated experience, that, when he had marched his army to fight the

Danes, in the north, they ran to their ships, and set sail for the south; and, in this manner, harassed him about to every point of the compass. Yet Alfred, under this real necessity, did not pretend to tax his subjects by virtue of his prerogative; but assembled his parliament, and shewed them the inconvenience he laboured under, with such a flying enemy; and pointed out the means of redress. He advised them to grant him a supply of money, to fit out a fleet of ships, and fight the enemy at sea; and so prevent their landing at all,

But Charles did otherwise: He referred his question to his corrupt judges, and obtained an affirmative answer, as it was literally stated; which he took care to publish to the whole kingdom, and to have it recorded, in the courts of law; and to be used, as a rule of court, in all causes upon this subject. At the same time he was resolved to have this pretended right of taxing the subject determined, the first opportunity, in a court of justice. And, accordingly, ordered, the famous Mr. Hampden, to be prosecuted, in the exchequer; for refusing to pay twenty-shillings, which he was charged with, in the rate for ship-money. Mr. Hampden, most nobly stood the contest, with the king, and brought this great cause to a hearing, before all the judges of the realm, who were summoned, for the purpose of supporting their opinion upon this trial; which, after many days hearing, was determined in favour of the king.

Thus

Thus the king removed out of his way, for the present, the two great obstructions to arbitrary power, that is, the parliament, and the law of the land; which laid open, the treasure of the kingdom, to his will. We may here again observe, the necessity of establishing some power, in the state, that is able, to assemble the parliament, without the king's consent; which, upon this occasion, would have saved the life of the king, the constitution of the country, and prevented all those calamities incident to a civil war.

King Charles had before told his parliament, that he had it in his power, to supply himself with money, without their assistance; that their sitting, or not sitting was at his option, and should be determined agreeably to their behaviour. And, as he did not like their conduct, he actually put his threats in execution, for twelve years; and had the Scotch been as tame as the English, for ought that appears, he might have continued them as long as he lived. For after he had dissolved his parliament, and appointed corrupt judges, who refused to administer the law for relief of the subject, in all matters that concerned the power, and revenue of the crown, there was no power, in the state, able to contradict his will. Here I shall leave him, to pursue his arbitrary measures, till a new scene opened, about the year 1640; that obliged him, once more to call his parliament.

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The king, having thus established an arbitrary power, and made himself master of the lives, and fortunes, of his English subjects, wanted to extend his tyranny, over the consciences of his people in Scotland; and regulate their mode of faith, and the ceremonial practice of their church, agreeable to his own. But they refused his dictates, and took up arms in their own defence.

Then it was that he found, what I would have all tyrants find, that the people would not contribute to enslave one another, at the command of the king. And were this always the case, there would soon be an end of all tyranny. For the English would not fight the Scotch, nor the Scotch the English; so that the king made but a ridiculous figure, amongst his loving subjects. Nay more, the English rather chose that the Scotch should march forward in order to reduce the king to that constitutional point of necessity, which must constrain him to call a parliament; and oblige him to submit, to their redress of the grievances of the nation. And, to this point of necessity, the king was finally reduced, when he called his parliament, which met on the third day of November, 1640.

Some authors affirm, that no age, or country, ever produced men of greater abilities, than what sat in this parliament. They might be great men, but

but not so great as those IMMORTAL BARONS, who rescued the constitution from the Norman tyranny, and restored the elective power to the people; neither was their work a thousandth part so great, important, and difficult. However, they had abilities equal to their task, and had their honesty been equal to their abilities, they would have been a blessing to their country; but, as it was, they proved the greatest curse the nation could have met with. Let us see then, how the parliament really acted, in this matter; making the constitution, the judge, which ought to have been the rule of their action.

When the parliament met, the king, in his speech, told them; "That he was resolved to put himself freely, and clearly, upon the love, and affections, of his English subjects." And his future behaviour corresponded with his words, and manifested a conviction, of the errors of his education. The commons being returned to their house, many members presented petitions of grievances, which they had brought with them, from their constituents; besides many others, that were daily presented from public bodies of men, as well as from private persons; in which they found ample matter of complaint, against the acting instruments of the king, and the principal men in administration. These men were the first objects of their resentment, who they were resolved to pre-

prevent from doing any further mischief ; and proceeded against them in such a manner, as soon struck a terrour into the boldest.

However, they first cleansed, their own house, from all such members as had been concerned in illegal monopolies, and injurious contracts ; and then impeached, the earl of Strafford, of high treason ; upon which he was sent to the tower. Sir Francis Windebank, secretary of state, finding no safety for himself, made his escape into France. From the state they proceeded to the church, and impeached Laud, archbishop of Canterbury, of high treason ; upon which he was sent to the tower. They obliged Wren, bishop of Ely, to give ten thousand pounds bail for his appearance. From the church they went to the law, and voted lord Finch, keeper of the great seal, a traitor to his country, upon which he fled into Holland ; and they obliged four of the judges, to give bail for their appearance.

Besides these particular men, who they intended to punish, they passed many general votes of terrour, which affected all the king's servants, from the highest to the lowest, and involved many others in the like guilt. That is, the house voted such, or such a thing illegal, and the advisers, and actors therein delinquents, who ought to be punished. So that few men, who had any connexion

connexion at all with the court, either directly or indirectly, and especially such as had been concerned in collecting the king's illegal revenues, and executing the decrees, and orders of the star-chamber-court, but were continually in danger, and subject to their vengeance.

Having thus ordered matters, respecting the ailing instruments, they went upon the grievances themselves; which they collected from the petitions, presented to them from several parts of the kingdom. Whatever they found a matter of complaint, they ordered in a bill to abolish it, if necessary; or blasted it by a single vote of the house, which, in many cases, was as effectual as a bill. For few men would subject themselves to a future correction, for a disobedience to their votes. It would be almost incredible to imagine with what dispatch, and ease, they proceeded, had we not been informed, that the commons divided themselves into forty committees, to prepare these matters for the house. So that the house had little more to do, than to confirm the reports of the committees, as they came before them.

We must observe, that all these regulations, during this time, met with little or no obstruction from the king, or his party. However, the king came to the house, on the 25th of January,

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and, in a speech delivered his reformed sentiments. He told his parliament, That he was very willing to concur with them in the reformation of all things, both in church and state, and to establish things upon the same foundation they were in, in the days of queen Elizabeth; by which he renounced all the doctrines of his father. But that, he differed from them, in two points.

In the triennial bill, he objected to the mode only; but as to the matter, of having frequent parliaments, he much approved of. The other point of objection, respected the bishops; in this he was willing to restrain them from all temporal authority, except their seats in parliament, which he could not consent to take away; and yet gave no other reason, but their having had, that privilege ever since the conquest, or before. To this last objection, the commons answered, very justly, to this effect, That time and usage, could not establish a grievance, that had sprung from encroachment, to the manifest injury of the state, and people of England. That it was their duty, as law-makers, to remove, from parliament, a body of men who had, constitutionally, no right there; and who had, invariably, directed their whole influence, against every principle of civil, and religious liberty; and were now particularly dangerous to the state.

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It is undoubtedly the most absurd and pernicious principle, that ever was received into any society of men, to permit the clergy, of any denomination, to have the least distant share, or influence, upon the legislative authority of any nation. And had the motives of the house of commons, for excluding the bishops from the house of lords, been as good as their motion, they would have done this kingdom a most essential piece of service; but their intent was only to pull down one nuisance, in order to establish another almost as bad. Their business, as law-makers, was to protect every man, in his right of private judgment, in point of religion; and not suffer any set of men to dictate to others, where it is impossible the state can be concerned, in a matter that merely subsists between God and a man's own soul.

The house of commons, not finding themselves strong enough, at this time, desisted. But shortly after, they destroyed the episcopal hierarchy, root and branch; and established presbyterianism, upon the ruins of the church. But instead of this, had they taken away the church-lands, and applied them to the service of the state, they would have taken away the true bone of contention. Had they destroyed all ecclesiastical power, they had destroyed an evil, in the state, and abundant matter of vexation. Had they protected

all men alike, in their different modes of worshipping God, they would have taken away all just occasion of offence, and established peace amongst men.

From many circumstances that appeared, upon this occasion, and in the case of the earl of Strafford, it seems evident, that the leading men of the house of commons, had, from this time, taken their resolution to subvert the constitution, and change the mode of government, of this kingdom, into, what they called, a COMMONWEALTH ; but, in reality, to vest the power in themselves, destroy the regal authority and enslave the people. Which will, undoubtedly, be always the case, whenever the house of commons gets an established footing, as they did, for a long course of time.

However, they artfully kept this their design from the publick, as much as possible, till they had got a power to execute it, which presented itself upon the following occasion. The king zealously defended the earl of Strafford, and the lords joined the king in his defence. By which the commons plainly saw, and the voice of the people was united with them, that if they could not bring the authors, of their grievances, to justice, they were doing nothing. Upon this account, they raised such a clamour, riot, and disturbance, over the whole kingdom, and particularly in the city

city of London, that the old and timorous members, and those they pointed out as obnoxious, durst not attend their duty in either house. And even the king, did not think himself safe, in his own palace.

Nothing can shew more clearly, to what a height they had raised the spirit of apprehension than that, in a few days, they were able to get a petition, against the earl, signed by forty thousand people, in the city of London; who attended the house of lords, in multitudes, to present it, to pray that the lords would pass the bill of attainder, against him.

In the mean time, the commons industriously spread a report abroad, that it would be impossible to redress the grievances of the people, or find money to discharge the Scotch army, so long as the king had it in his power, to dissolve the parliament; which, they much apprehended, he would do. This was properly bringing the matter to the point they wanted. And, therefore, when they saw the spirit of apprehension was ripe for their purpose, a Lancashire member moved, in the house, at a late hour, that if the king would pass a bill, that the parliament should not be dissolved, without the consent of both houses, he could procure six hundred and fifty thousand pounds, for the discharge of the money due to the
Scotch,

Scotch, till they could find some other means to provide for it. The very next day, the bill was hurried through the house three times, and was perfected, and sent up to the lords, the very same day, for their concurrence; and, in four days after, this fatal bill received the royal assent.

This memorable event will be marked, in our future annals, like that, of Marius and Sylla, in the Roman history, who taught future adventurers the way to destroy the Roman constitution, and make slaves of the people. For it is the first instance, in the English history, wherein the house of commons impiously violated the rights of the people, and gained an establishment, by act of parliament, by consenting to a law for their own duration: by which the elective power, of the people, was destroyed, and our free state converted into a fixed, and standing aristocracy.

There are times when we see a whole nation seem to run mad, and rejoice in their own destruction. This was the case at that time, for the people rejoiced over this enslaving act, and deemed it a conquest over the king. England has been mad several times, since this period, but this was the greatest fit of frenzy she ever had. It is at such times of disorder as these, that artful politicians often convert the mistaken zeal of the people

ple to their own advantage, and the people's ruin. Which was precisely the case of the leading members of this house in obtaining that unconstitutional act.

The house of commons, or the elective body in our parliaments, is, in its own nature, unfixed, changeable, and for ever in motion; and this moveable principle, in our constitution, is its strength and security. It is this that hath kept it alive, and preserved it for many ages; nay, in short, it is liberty itself. A little attention will show us, that the quick and lively exercise of the dissolving prerogative of the king, and the elective power of the people, form a circulation, which is as much necessary to the well being of the state, as the action and re-action, of the solids and fluids, are necessary for the health of the animal œconomy. For if they be restrained from action, or suffered to stagnate, they will produce all manner of disorder, danger, and death. By that fatal act, which fixed the duration of parliament, the first principles of our constitution were destroyed, changed, and subverted; the legislative authority became fixed, by law, and consequently the people became slaves, by law.

There are three constitutional checks which defend one power in the state, from encroaching upon the rights and privileges of another. By
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this law, two out of the three, were lost. By this law, the king could not dissolve his parliament; and therefore he could not defend himself against the encroachments, of the two houses, upon his constitutional executive authority. By this law, the people lost their elective power; for, as the king could not dissolve his parliament, so the people could not elect a new one; consequently they had lost, their constitutional check, against the treachery of their own members.

There is no chief magistrate, no political body of men, call them by what name you please, whether the many, or the few, let them be ever so wise, ever so virtuous, ever so moderate, or high in your expectation, at the entrance upon their office, but what will (if you once make them powerful, and fix them above your own control) most certainly degenerate into tyrants, and make you slaves. This doctrine was amply verified, in the conduct of this parliament. However, at the time of passing the act, it was doubtful, whether they intended to make use of their power to establish the constitution upon a solid foundation, or to destroy it altogether. But their intention became afterwards very manifest, when they delivered their remonstrance to the king, dated December 1st, 1641.

In this remonstrance, they declare, "That they had secured the property of the subject to himself, by reducing the pretended prerogative of the king within the limits of law, and prevented, for the future his taxing the subject, or charging their estates without the consent of parliament. That they had secured the liberty of the subject, by abolishing all the arbitrary courts of law, and reducing others within their due bounds. That they had made an example of evil counsellors, and instruments of the past grievances; by which no man for the future, durst obey the king's illegal commands. That they had repealed many obsolete laws, which had been a cover for many grievances. They acknowledge the king, during this parliament, had past more good laws, for the advantage of the subject, than had received the royal assent for many ages. And as a matter above all the rest, that the king had passed an act for triennial parliaments, which, as they themselves say, afforded a perpetual spring of remedies for the future."

If then they had rectified what was amiss, in times past, and provided a remedy, for the time to come, what had they more to do? Nothing, but to consent to their own dissolution, and renounce that unconstitutional power they had become possessed of, and leave the state to that perpetual
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spring of remedies, which they had provided for the future.

Had they done this, they had done like honest men. But a dissolution of their power was far from their thoughts. The last mentioned remonstrance, can be considered as nothing less than a cause of further quarrel, in which they might seek a pretence to continue their authority. For they had now drunk deep of that diabolical spring, which intoxicates all mankind, and renders their thirst of power insatiable. They had obtained a right, by law, to their seats in parliament, during their own pleasure; and it is very evident they never pleased to rise, till they were forced out of the house, by a file of musketeers, under the command of Oliver Cromwell.

To this infernal principle, the thirst of power, I must ascribe that unrelenting vengeance, with which the parliament pursued the king, through the whole course of a most bloody war; because he was the greatest obstruction to the establishment of their intended commonwealth and consequently to the establishment of their intended power, and tyranny, over their own constituents. We shall not stay to make any remarks upon the war, but only observe, that the parliament never gave the king one moment's respite, till they brought his head to the block, and made way, through his blood, to establish their own sovereign authority.

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With the king fell the house of lords, which, indeed, had been but too instrumental in pulling down the REGAL PART of our government, and thus destroying that just division of power, which constitutes the beauty and strength of our constitution. Thus all degrees of power, in the state, were at once swallowed up in the house of commons: and the people left to bewail the dreadful consequence of their own credulity, with their lives, liberty, and property, at the mercy of these traitors to their trust. The people were now more slaves, to their own representatives, than they had ever been to the king; for WHERE ANNUAL ELECTION ENDS, THERE SLAVERY BEGINS, whatever that power be that bars such election.

The spirit of our English constitutional liberty, is founded upon the annual exercise of our elective rights; and not in having, a fixed representative body of men, in parliament. The house of commons were no longer the representatives of the people, than they were constitutionally so, that is, for one year; agreeable to the ancient law of the land, and confirmed by a statute, of Edward the third, which declares, “That parliaments should be holden every year, or oftener, if need be, for the redress of divers mischiefs, and grievances that daily happen.” They were not the more the representatives of the people though, they first elected them, because they afterwards continued them-

felves, by their own authority, during their pleasure.

Men of cool reflection, upon these historical events, (when they had seen, in this great struggle for power between the king and parliament, every nerve of the constitution exerted, upon one side, or the other, and every constitutional right claimed, on both sides, which might contribute to their success) justly concluded, THAT ENGLAND COULD NEVER BE BROUGHT INTO SLAVERY, BUT BY PARLIAMENTS THEMSELVES.

It is very evident that the great barrier, of our constitutional liberty, consists in an inseparable union of interests, between the house of commons, and the people; which can only subsist by annual election. And that Charles the first, by endeavouring to govern without parliaments, had only cemented this union, and made this barrier impenetrable against himself; as it had been against every king, who had attempted to destroy it, since Henry the third.

But when the house of commons came to divide from the people, and set up a separate interest for themselves, it was but too evident, they could impose all manner of insult, and outrage, as well as any single handed tyrant whatever. They had no more regard, to the ancient form of government,

ment, to the rights, privileges, and franchises of the people, than William the conqueror, or any other tyrant, since his time. Indeed, after they durst so impiously, and treacherously destroy, the elective power of the people, by consenting to a law for their own duration, it is no wonder they should MURDER THE KING, DESTROY THE HOUSE OF LORDS, AND MAKE SLAVES OF THE WHOLE REALM.

Charles, claimed his right of tyranny, "*ex jure divino*," and the commons, claimed their right of tyranny, from "*vox populi, vox dei*:" so that each side, had some pretensions, to a divine origin.

S E C T. II.

To the revolution.

WE shall now proceed to the reign of king Charles the second, who, as well as other men, had sufficient reason to be convinced, by the transactions of the late war, that English liberty could not be destroyed, but by parliaments themselves.

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The late conduct of the house of commons, had furnished him with both a principle, and a precedent, by which this might be done; which was, by restraining the elective power of the people from action, to distant periods of time; which would render it both impotent against himself, and useless to the people; and yet keep up the outward form, and face of the constitution. Charles had seen the representatives of the people, consent to a law, for their own continuance, during their pleasure; which had destroyed, the elective power of the people, for almost twenty years.

From this time our succeeding kings, no longer directed their artillery against the house of commons, but against the elective power itself, in the hands of the people at large; since they found, by experience, that the house of commons was willing to make, a separate interest, from their constituents. King Charles the second, was the first that tried this principle, by the assistance of his prerogative, in the manner we are now going to relate.

It is remarked by historians, that Charles was of opinion, that few men acted upon a principle of public virtue, or a sense of honour, honesty, or moral obligation, but that the generality of mankind acted wholly from a principle of interest; and what he had seen either abroad, or at home, had

had not contributed to alter that opinion. It was an easy conclusion, from this principle, that if he could divide the interest of the house of commons, from the interest of the people, he should divide their strength; and then, by uniting the house of commons in the interest of the crown, he should have the support of the commons and leave the people naked, and defenceless, with their lives, and fortunes at his mercy.

And, therefore, Charles was no sooner settled upon the throne, of his ancestors, by the convention of the states, which was a motly assembly of all parties then in being, and in whom he could not confide, then he resolved to call a parliament, by his own writ, that he might have the elections more under his own management. By this means he procured a parliament, to his liking, which, afterwards, obtained the name of THE PENSIONED PARLIAMENT; which, he continued sitting, by prorogation from time to time, for eighteen years; because, having once got a corrupt house of commons, which was the thing he wanted, he would not dissolve them.

With these he began to execute his new mode of tyranny, by a direct contrary course to his father, or any of his progenitors. And that was, as I just now said, by dividing, the interest of the majority of the house of commons, from the
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people, and suffering them to share with him, the plunder of the nation. Before this time (the rebel parliament excepted) a standing house of commons, was as much a stranger to this country and constitution, as a standing army ; but the king having obtained the first, soon made way for the second, for it is observable that a standing army was introduced at this period.

Let it ever be remembered, and seriously considered, that every county, or borough, when they choose their members, put into their hands no less than the keys of all their treasure ; and not all their treasure only, but the treasure of every man in the British empire ; out of which they can take what they will, how they will, and when they will, and, as such, are a very desirable partnership for a king.

Charles governed this kingdom, in the same arbitrary manner, with this elective body of men, as William the conqueror did without them. For as the people had, in both cases, lost the exercise of their annual power of election, with that they had lost the remedy for all their grievances. And under this mode of things, may be observed, all the marks of tyranny, that can be found, under the despotick government of one man. The laws, were no longer any protection, to the innocent ; judgement and justice, were directed by court policy ;

policy ; severity, and cruelty, took the place of mercy and moderation ; flitting of noses, cutting of ears, whipping, pilloring, branding, fineing, imprisoning, hanging, and beheading, were the constant lot of those who had virtue enough to speak, write, or act in defence of constitutional liberty.

And, so far was the house of commons from relieving the people, under this dreadful dilemma, that they contributed all in their power, to prevent even their cries, and prayers, from either approaching the throne, or themselves. They passed a law, by which no man durst ask his neighbour to join him in a petition, for relief, to the king, or either house of parliament. It was a melancholy consideration, to see the people refused the benefit of prayers, and tears, for relief, against their own infamous deputies.

But such, indeed, was the state of the English people, for fifty years together, under the various powers that had subsisted, during that time, when they were restrained from the exercise of their elective rights : that is, for twelve years, under the tyranny of Charles the first ; for twenty years, under the tyranny of the rebel parliament ; and eighteen, under the tyranny of king Charles the second and his pensioned parliament. There were, only two regular elections, for fifty years ; one in

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the year 1640, which produced the rebel parliament, and one in the year 1660, which produced the pensioned parliament of Charles the second.

It might have been expected, at the revolution, after the English had seen by what means their elective power had been evaded, that they would have provided a remedy equal to the evil. What had passed was certainly sufficient to convince them, that they could have no dependance, either upon the king, or upon the house of commons, for the due administration of their elective power; and as government found out new means to evade it, it was the indispensable duty of the people, to have established new means to preserve it.

After the restoration, of the constitution, in the reign of Henry the third, it became the general practice, to elect a new house of commons every year, or at least every time the king wanted a new supply; which was agreeable to the Englishman's boasted right of disposing, of his own money to the state. And this continued down, with very few variations, to the family of the Stuarts, who confounded every principle, and custom, in the constitution, and mode of government.

James the second, inherited all the diabolical spirit of his whole house; was a person that no experience

experience could teach wisdom, laws make honest, nor oaths bind ; and therefore the whole nation united, as one man, to exclude him, and his detested race, from the crown of these realms for ever.

CHAP.

CHAPTER VII.

*From the revolution to George the second, with some
remarks.*

WE are now come to that epocha, of the English history, commonly called the REVOLUTION; in which the English people were made to believe, that their laws, liberty, and religion were going to be established upon the most constitutional, firm, and stable foundation, under the immortal king William the third, of glorious memory.

Before the parliament, or rather the convention, tendered the crown to William, they made a declaration, containing thirteen articles, of some of the rights and liberties of the people, which had been violated in the three late reigns. In the thirteenth of which they declare, “That for the redress of grievances, and for the amending, strengthening, and preserving of the laws, parliaments ought to be held frequently.”

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But what they intended posterity should understand by the equivocal word frequently, is hard to determine. It seems to insinuate something, in favour of the elective power of the people, but determines nothing of certainty in that respect. Had they declared that parliaments should be held annually, and a new house of commons elected every year, they would have then plainly declared for the constitution, and the elective power of the people. This would have established it, by a publick declaration of the two estates, then in being, upon a constitutional ground, which would have put it out of the power of their intended king, or any future parliament to have restrained, or subverted it, either by the prerogative of the crown, or acts of parliament.

But it appears very evident that, upon this critical occasion, the convention did not do their duty to the people (by acting upon the principles of the rebel parliament) and meant to usurp a power, in the legislative authority, to determine how often the people should exercise their elective rights. Accordingly we find they, soon after, made an act by which our kings, were obliged to call and dissolve their parliaments, once in three years at least. Thus they introduced the practice of the rebel parliament as a principle of the constitution; and usurped a power in themselves of restraining, the elective power of the people,

ple, by acts of parliament. Hence we shall find that, having once introduced the principle, innovations succeeded one another as fast as time, and opportunity would permit. And, accordingly, in the following reign of queen Ann, the parliament made a law for a landed qualification of the members of the house of commons, by which it was enacted, That every member, for a county, should be possessed of an estate in land, of six hundred pounds a year; and every member, for a borough, should have an estate in land, of three hundred pounds a year.

The principles, upon which these two laws are founded, have, in their operation, converted our free constitution, and mode of government, into a down right rank aristocracy, of the rich in land. Our ancient parliaments were composed of THE WISE MEN OF ENGLAND but, since the enacting these two laws, they have been changed into THE RICH MEN OF ENGLAND; which, have made a vast difference, in the spirit of the laws that proceed from thence. But as I intend, hereafter, to enlarge upon this subject, I shall only, for the present, observe upon what a slippery foundation the first principle of the constitution now stands, upon this REVOLUTIONAL ground; where the parliament have vested themselves with a power, to restrain the annual exercise of the elective power of the people, by acts of parliament.

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The people of England received, their elective rights, from the law of nature, and the constitution, TWELVE HUNDRED YEARS before William the third favoured us with this Dutch amendment. But from his time the house of commons began to act as principals, and to forget their relation to their constituents, as agents, and deputies, from a state formed upon a delegated power; and disposed of the elective rights of the people, as they found it convenient for themselves. This was no less than admitting the principles of the rebel parliament, in restraining the elective power of the people, by acts of parliament, as the principles of the constitution. Though such acts had never been heard of, in the whole course of the English history, before that period, and had then reduced the people to slavery for twenty years. Besides, it was a second precedent where the house of commons had taken upon themselves, to consent to a law to restrain the power of their constituents.

This was the more inexcusable, as, at that time, the nicest care should have been taken, to have preserved the first principle of the constitution, from violence, or the treachery of the representatives of the people who had twice before, so basely betrayed their trust, that a remedy, for short parliaments, placed in the hands of the house of commons, was very evidently no remedy

medy at all. For we find, in the reign of George the first, the parliament repealed this TRIENNIAL law, and made another, commonly called the SEPTENNIAL law, by which they gave themselves a duration of seven years. And, in the reign of George the second, they made a conditional law, which might have given them a duration for TWELVE years. And notwithstanding this law never took place, yet it is a fourth precedent, in the English history, and a third since the revolution, wherein the house of commons hath thought proper, to restrain the elective power of the people, by acts of parliament. To which we must add, the qualifying law, (which makes a fourth precedent since the revolution) whereby the elective power, of the people, is directed to the object they shall choose, which is now confined to the rich in land.

Thus the house of commons, from being deputies in a state, formed upon the common rights of mankind, are now become principals; and control the creative power from whence they derive their authority. Which is acting upon the very same principle, by which the ancient Romans lost their liberty; when the consuls, who were, in their constitution, annually elective, continued themselves, in power, by their own authority; and consequently made the people slaves. The change that is made in our constitution by these laws and
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principles and operations that attend them, have totally changed the temper and spirit of our government, which I apprehend, are the true cause of the general discontent, which hath been encreasing upon us for a number of years, and now distracts the whole British empire.

We have now had some years experience, in the operation of the qualification law, of queen Ann, and the septennial law of George the first; which two laws have brought upon us many public calamities. The first I shall take notice of, is that aristocratical law, made in the reign of queen Ann, by which all free elections, for members to serve in parliament, are destroyed; the electors being restrained, by this law, in their choice of representatives, to the rich in land only.

Our government is founded upon the common rights of mankind, in which wisdom, and honesty, were the only qualifications necessary for a member of parliament; and so it continued down for twelve hundred years. This inspired our laws, with an equal spirit, in favour of all men. But since this law moved our government from this ground, and made it a government founded upon riches, and these riches to be in land, it hath vested all our legislative authority in one class of men, the great freeholders; which has established an

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aristocracy, now become dangerous, both to the crown, and the people.

Our constitution, knows no such partial law as this; every man born in England, that was an elector had a right to give his vote where he pleased; and every Englishman was eligible, to serve in parliament, that his constituents thought properly qualified! The electors of our towns, and boroughs, we may, constitutionally, consider as men without land; because they do not derive their right of election by any right they have in the land, but as being Englishmen, and members, or inhabitants of some town, or borough. And, therefore, their duty, as electors, was to choose some eminent men, out of their own body, whose interest was the same, as the men without land. And, in like manner, the freeholders, in every county, used to elect some eminent men, out of their body, whose interest was the same as the men with land.

Thus we see our constitution hath drawn a clear line, between the men WITH LAND, and the men WITHOUT LAND; or, in other words, between the inhabitants of the towns, and the inhabitants of the rural part of the kingdom. And hath, accordingly, provided each with distinct powers of election, that they may choose proper

proper men, to represent themselves in parliament. But now, by this law, all our boroughs, and towns corporate, are obliged to choose none but rich freeholders; so that, when they meet in the house of commons, they are all men of one interest.

From this time, therefore, many of our subsequent laws, and especially those respecting property, trade, and taxation, have become partial laws; and have been made to operate, in a manner, for the sole advantage of the rich in land. All laws will be partial, that are made by only one part of the people; or, in other words, by one class of the people. From this selfish principle proceeds the partial, arbitrary, and tyrannical spirit of our game-laws; so that now no man can either fish, or shoot, without having a qualification in land. Indeed all this tribe of laws are so pitifully partial, mean, poor, and wretched, that they would disgrace the petty tyrants of Barbary.

They have engrossed, within a line of their own drawing, all hares, wild fowl, and fish, that are natives of this kingdom; which, in their own nature, being wild, and wandering, and not subject to restraint, are, therefore, the natural right of the first man that can catch them. But these laws, have not only subverted this natural right of mankind, but established, their own,

with a bitterness little less than cruelty; for they are guarded, and defended with the same selfish spirit, that the most niggardly miser would guard his treasure. So that a poor man cannot entertain his longing wife, with a gudgeon, of his own catching, without being guilty of felony; or kill a partridge, without fine and imprisonment. Nay more than this, no man dare touch one of these prohibited bodies, even when they are dead, under a penalty of five pounds, without being first franked with the hand of one of these qualified engrossers. In short, they have defended these laws, with the same care, that I hope to see the house of commons defended, from place-men, pensioners, and contractors; that is, by all the locks, bolts, and bars, that the ingenuity of man can contrive, or invent.

From the same selfish principle proceeds all our taxes upon the necessaries of life, which so much distress the poor; such as malt, hops, beer, soap, candles, leather, and the like; and, indeed, upon almost every thing that they can eat, drink, or wear; and all to save the land: which has raised the price, of the necessaries of life, to such a degree, that the industrious poor can hardly get bread to eat. And when the land-tax is nominally at four shillings in the pound, according to the best information I am able to meet with, it
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does not, upon an average throughout the kingdom, in reality, pay nine - pence. From the same cause arises the extraordinary advance of land, which is chiefly artificial, and proceeds from the favour it receives from the selfish spirit, introduced, into our government, by this law. These are the first law-makers, that ever appeared in the known world, that were so notoriously partial, to their own interest, as to give five shillings a quarter, or one eighth of its value, out of the publick money, for the exportation of bread-corn, out of their own country, the place of its growth; which has increased their estates to double their former value, and raised the price of all provisions, that are the produce of the land, to such an extravagant degree, that the poor-rate is now become almost equal to the land-tax.

The value of lands, like commodities in trade, will rise and fall in proportion to the advantage that can be made of them; and, therefore their value will be in proportion to the value of their produce, so that nothing more is necessary, to increase the value of the produce, than to increase the demand and consumption of it, and the value of land will rise of course. The price of provisions, which are the produce of the land, has, at all times, or at least for a long time, been greater in England, than in any one country in Europe; and consequently

quently our poor, have always eat their bread, at a higher price than any other nation. And, therefore, our corn could never find a market abroad ; because it would fetch a better price at home. This being the state of things, before this act took place, it would have been nothing more than common policy, to have reduced the price of provisions, that our manufacturers might work upon the same terms, as other nations. In some countries, like Poland, where there is a large quantity of land and few inhabitants, and few or no manufactories, the corn may be exported with advantage to the people ; when that is the case, in England, (which God forbid) it may be exported, but not till then.

But this act of parliament, which gives a bounty (properly so called) of five shillings a quarter upon the exportation of wheat, has entirely inverted the order of things, and disappointed the end for which it was pretended to be made. It has indeed increased the growth of corn, in this kingdom, to a great degree, but it has, at the same time, forced the principal part of it abroad, for other nations to eat ; by reducing the price upon the exportation so much below the price of foreign markets. To illustrate this point, let us suppose the market-price of wheat, in Holland, and the market-price of wheat, in England, to be the same ; and we will call that price forty shillings,

lings a quarter. Now the exporter of our corn, will receive, from this price, five shillings; which is no less than one eighth of the whole value, or twelve and a half per cent. And, therefore, his wheat will now stand him in twelve and a half per cent less, than the market-price in Holland.

Upon this ground, it is self evident, that, with this advantage, our merchants must beat the Dutchman out of all the markets in the world; for the latter can never sell his wheat, at any Italian, or foreign market, against this English-bounty, so long as there is any wheat in England to sell. And were it not for the bar, which puts a stop to the exportation, by a limited price fixed by this act, it would drain the kingdom to the last bushel, and create a perpetual famine in the land. But the Dutch, who are the greatest dealers in corn of any nation in the world, know how to work this matter to their own advantage, for they engross your wheat, and take the bounty to themselves, and then they can sell at a par, with the English, at any market; or keep it till they have drained your markets dry, and then sell it to you back again, at any price they please. And hence it comes to pass, that we have such a constant scarcity at home, as puts it in the power of the proprietors, of the little that is left, to advance the price of it to almost what they please.

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The natural consequence, of thus encreasing the value of provisions, is the encrease of the value of land; which has now advanced the rentals one half, and in many of the estates double to what they were before this act was made. And to crown all, this bounty is to be paid out of the national funds, granted for the service of the state; and therefore it is, ultimately, neither more nor less, than taxing the people to pay the landlord these extravagant rents. Where so many people were interested, as must be in an act of this nature, every thing would be said, in its favour, that could either divert, the attention of the people, from the real object, or afford the best reason for its passing. But the only reason I have heard, worthy of observation in support of this act, is the quantity of money it hath brought into this kingdom. If money indeed be the sole object of government, and not the welfare of the people, and this money is to be directed into the pockets of any particular set of men, it might have some weight: but this I did not apprehend to be the end of government, or the intention of any act of parliament.

However, if that be the case, there might have been an act which would have answered the purpose much better. For they might have made a law by which every man, that was not a gentleman, and possessed of an estate in land equal to a qualification for a member in parliament, should have been obliged

obliged to eat horse-beans, pease, and potatoes; and that none but themselves, their wives and children, with their whores, pimps, and parasites, should have been allowed to eat wheat: Unless it was by a special licence, on paying five pounds a head, first had, and obtained, from any member of parliament, for the time being.

The benefits, of such a law as this, would have been many; but I shall only instance in a few particulars. They would have been, by this means, able to export almost all the valuable bread-corn in the kingdom, by which they would have brought, many millions of money, into the pockets of the landlord; at the same time, it would have raised the price of horse-beans, at home, to the same price as wheat is now at. It would have greatly advanced the price of beef, and mutton, as there would have been less grazing ground, for breeding and feeding of cattle; which would have made an excellent scarcity, and added greatly to the emolument of the landed gentry. And it would have reduced the people to that due state of subordination, much wanted in England; and made a proper distinction between a gentleman, and a commoner. And, to finish all, they should have had this act, and those belonging to the game-laws, in which I include the fish-act, bound up together, for the use of

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schools ; that every boy might have learned his duty, and condition, at the time he learned to read.

The nobles, as observed before, exercise their legislative authority, in person, from being great freeholders ; and, by the partial qualification-law of queen Ann, all the elective power, in the house of commons, is also vested in the hands of the great freeholders. From whence it is very evident, that this law has formed an aristocracy, in our government, composed of the great freeholders of the realm. It always did happen, and always will be the consequence, that where one class of men gains an ascendancy, in the legislative authority in any state, they will make use of their power, as members of the legislative body, to promote their own interest, as individuals ; and incline the laws to establish their power, and interest, at the expence of every other man in the state.

The second law I proposed to enlarge upon, was the septennial law of George the first, which has confirmed the aristocracy introduced at the revolution. Besides, this law hath removed the constitutional ground of the Englishman's boasted right of disposing, of his own money for the service of the state, by electing a new house of commons,

mons, every time the king wanted a new supply, by vesting that power in a septennial house of commons, independent of the people. This was destroying that mutual bond of obligation, between the king and his people, since the king was no longer obliged to his people to give their money, while the house of commons, could take it away, without their consent. It was creating, in the house of commons, a dependance upon the king, for their continuance; and not upon the people for their election. It was destroying that confidence, between the commons and the people, which had been the support of the constitution for many ages; and robbing the people of their remedy for all their grievances. It was, in effect, reducing the government to the same state, as under Charles the second; for the injury done to the people, was the same, whether they were deprived, of their annual elective rights, by the prerogative of Charles the second, or by an act of George the first.

There is another matter, that offers itself to our consideration, in respect to these two laws, which upon the principles of our constitution could not subsist, and hath been productive of more evils, than I shall here enumerate. However, we may assert, that they have given an opportunity, to five or six hundred rich and

powerful men, during the space of seven years, to display every passion, that can distress a commonwealth, and make the people miserable; as avarice, pride, malice, envy, and a love of power, which always will actuate established bodies in government, so long as men are men.

And while places, pensions, contracts, and other emoluments, from the publick treasury, are attainable by members of the house of commons, they will be in danger of putting all those passions in motion, and of propagating perpetual mischiefs. A combination of these motives actuating the conduct of rich and powerful parties and factions, formed and united together for their private interest, may obstruct the wheels of government to such a degree, as to throw the whole nation into confusion, in order to force themselves into offices of profit, trust, and power, in the administration. By this means, the executive, and legislative authority, which our constitution hath so carefully divided, may be confounded together, by being in the hands of the same men. Under this circumstance, the people of England, would be reduced to the same condition, as the fish in the sea; where the greater are continually devouring the less.

Sir Robert Walpole was the great father of corruption, he contaminated the whole nation,
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with a venal spirit, and made the generality of our boroughs, rotten to the very heart. The guilty numbers, now give countenance to the act, and boldly open their hands to the bribe, and think themselves no longer infamous. Hence perjury, bribery, and corruption, are diffused, through the whole body of the nation, by the same channels that contain the elective power of the people, who now no longer return, to the great council of the nation, the wise, the just, and the honest man, but any man that can bribe the highest. Let us then return to the principles of our constitution, for, most undoubtedly, free and unrestrained annual elections, are the grand and sovereign remedy for such a malady, as they would at once, put an end to all buyers, and consequently to all sellers. But so long as these two laws remain unrepealed, it will not be in the power of the best and wisest king, that ever lived, to govern this kingdom with peace to himself, and satisfaction to his people.

There is not a more dangerous doctrine can be adopted, in our state, than to admit that the legislative authority hath any right to alter, the first principles of our constitution, by acts of parliament. Upon this foundation, they may mould it into what shape they please; and, in the end, may make us slaves, by law. The house of commons are, constitutionally, a body of men merely passive, with
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regard to their creation, duration, and dissolution ; and therefore have, by no means, any consent to give to their own duration, even for an hour. Neither did they ever pretend to such a power, through the whole course of our history, before the rebel-house of commons, in the reign of Charles the first ; who taught, future adventurers, the way to destroy the constitution, and make slaves of the people.

I shall therefore not hesitate to date, the decline of our constitution, from the REVOLUTION ; because the principles of the rebel-parliament of restraining, the exercise of the elective power of the people, by acts of parliament, were adopted, into the constitution, at that very critical period of our history. Hitherto, it had only the prerogative of the crown to struggle with (saving the single instance of the rebel-parliament abovementioned), but at the revolution, which brought William the third to the crown of England, he, and, his parliament, began the practice of restraining, the elective power of the people, by the legislative authority. A power that might become ten-thousand times more dangerous, to the elective rights of the people, than the crown could ever possibly be. For when ever the active parts of a government, founded upon the common rights of mankind, shall usurp a power to restrain, or destroy those rights,

rights from whence they derive their authority, that state is not far from destruction.

Thus the primary law of our constitution, the first principle upon which it was founded, which had stood the test of twelve-hundred years, and been the admiration of many ages, was now reduced to the common level of a nuisance, to be corrected by acts of parliament. What had the free spirit of our constitution done, to deserve this severe correction? Had it too well defended the rights, and privileges of the English people? Had it too well defended the persons, and property of the subject? Had it too well confined, the expence of government, to the necessities of the state? Had it too well prevented the publick money from being misapplied, embezzled, and given away in useless places, bribes, pensions, and extravagant contracts; that it was now to fall a sacrifice to this political, aristocratical law?

To deduce our rights from the principles of equity, justice, and the constitution, is very well; but equity and justice, are no defence against power. You must take your constitutional rights, under your own protection, and that quickly too, or they will be lost for ever. Protect and defend them, as the apple of your eye, from danger, or, as you would your wives, and children, from destruction: and never desist from using every legal remedy, till
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you have established them, upon a foundation, never more to be shaken, either by prerogative, or acts of parliament.

I shall beg leave to conclude, this part of my subject, by offering a few observations upon the principles, and power of acts of parliament, respecting their restraining, and destroying the annual elective power of the people. First it appears, from what has been said, that this annual elective power, the first principle of our constitution, is a right of inheritance, which was brought into England by our Saxon forefathers, at the first establishment, of the Saxon mode of government, in this island; and which the people, hold by the ancient, common law of the land. And which they had enjoyed, from generation to generation, for twelve-hundred years, before the reign of William the third. And therefore this elective power of the people, may be truly called, their constitutional right of inheritance. An inheritance that can no more be taken from them, or restrained, justly, than any estate, in land, can be taken from the right owner.

Justice is an essential attribute of law. Were the king, lords, and commons, to make an act of parliament, to take away my estate, it would only be an act of power; for it would want, that
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essential attribute, to make it an act of law. The injustice done me, would vitiate the act to such a degree, as to make it void in itself. And, therefore, all acts of parliament, that diminish the elective power of the people, must be acts of power, and not acts of law : because they take away, from the people of England, an inheritance more valuable than the greatest estate. An inheritance that comprehends the dignity, welfare, and happiness of all the people in the British empire.

I take it for granted, that the house of commons would not admit, that the king, or the king and lords, have any right to restrain, or destroy the elective power of the people, and govern without them. Who then can do it ? Surely no man will say, that the people either can or would delegate, to their deputies, a power of destroying, or restraining, that elective right which is the foundation of their liberty. If the house of commons be vested with a power to consent to such a law, then our constitution hath established a power to destroy itself, and made the rights of the elector depend upon the will of the elected ; which is an absurdity too ridiculous to mention.

Our legislative authority is, by its own nature, confined to act within the line of the constitution ;
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and not to break through it. Because, the house of commons is only vested, with a trust, by the people, to the end they may protect, and defend them in their rights and privileges. And, therefore, it is a contradiction in terms, to say, they have a right to consent to a law that may restrain, or destroy them. I think it is as plain, as any proposition in Euclid, that the house of commons could not consent to such a law, without a notorious violation of the trust, reposed in them. If our legislative authority be not bound, by this constitutional rule, we have been in a dream from the foundation of its establishment. And if this be the case, why do we talk of our constitution in general ; or of our constitutional rights, privileges, and franchises in particular ? they are mere sounds without sense, and words without meaning.

Upon this principle, our constitution may be one thing to-day, and another thing to-morrow. It is this, or that, or any thing that our legislative authority, for the time being, shall think proper to make it. If so, they might, sometime or other make a law, to continue themselves for life, and enact, that no man shall be an elector, for a member of the house of commons, that is not possessed of an estate, in land, equal to that required, for a qualification of one of their own members ; by which means, they would
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elect one another, and then the aristocracy would completely throw off all disguise : This seems to be the point, to which our constitution is verging ; and, without great care, in all probability, it will die, OF AN ACT OF PARLIAMENT, at last.

CHAPTER VIII.

The dangerous state, of the elective power of the people considered, with some proposals for its future security.

SECT. I.

ALL reasons that are given for enacting laws, which restrain or destroy the principles of our constitution, are false, fraudulent, and delusive; and are only given as a cloak to hide, from the people, the latent evil, and venal iniquity of such laws.

The chief reason given, by the promoters of queen Ann's law, of landed qualifications of members to serve in parliament, was this, "That no man should sit in the house of commons, who was not a man of known independent fortune; and consequently not liable to temptation, or open to the corruptions of the court."

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These, indeed, are words of goodly import, but of no meaning here ; and are as foreign from the private reasons of passing that act, as truth is from falshood. There is not a man, in the British empire, that does not see the falacy of this reasoning. And sir Robert Walpole, who founded his whole ministerial power upon bribery, and corruption, hath told us, from his own experience, that every man had his price.

Our constitution hath not placed the independency of the house of commons upon the riches, honour, or virtue of the members of that house ; but she hath placed it upon an IMPOSSIBILITY of its being corrupted. She hath placed it upon the abundant number of electors, and the constant annual exercise of their constitutional powers of election.

Had king William, at the revolution, intended to have established an independent house of commons, he would have restored the constitution to its first principles ; and established annual parliaments, and a new house of commons every year. This would have been an infallible remedy, against all corruption ; because no corruption can stick upon a body of men, that is continually changing. As standing water soon stinks, and a running stream throws out all impurities, so a standing
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house of commons, will ever be a standing pool of corruption; but an ANNUAL CURRENT, through that house, will restore it to its pristine purity, and preserve it INCORRUPT for ever.

Much has been said, and much has been writ about patriotick kings, and patriotick ministers, but give me leave to tell, the good people of England, that it is all PATRIOTICK NONSENSE. It is the principles of the constitution, the constant annual exercise of their elective powers, and those only, that must make this nation free, and happy. It is their business, as electors, it is their business, as the people in general, to watch over, and take care that the first principle, of our constitution, be not evaded, by any power in the state.

If they will not do this, they must perish; for they will never find any patriotick administration, that will do it for them. It is not the interest of any administration, to have a sharp-eyed house of commons, to overlook them. They had much rather MANAGE a house of commons, than be managed by one. So if they intend to leave it, to such an administration, they may wait like the Jews, till dooms-day; and cry lo! here he cometh, and lo! there he cometh, but they will never find any such Messiah, that will come to their assistance.

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The people at large, when they lose their constitutional guard, are, like a rope of sand, easily divided asunder, and, therefore, when the acting parts of the constitution, shall abuse their trust, and counter-act the end for which they were established, there is no way of obtaining redress, but by associating together, in order to form a new chain of union and strength, in defence of their constitutional rights. But instead of uniting, for their common interest, the people have suffered themselves to be divided, and split into faction, and parties, to such a degree, that every man hath rose up, in enmity, against his neighbour; by which they have brought themselves under the fatal curse, of a kingdom divided against itself, which cannot stand.

It is the common political trick, of statesmen, to throw out some bone of contention, among the people, to divide them, and so divide their strength; by which the latter become as weak, in opposition, as children; while the former, and their prevailing faction, get possession of so much power, as to overturn the constitution, and rob the people of their rights. Thus the people of England have been spending their strength, and fury upon one another, about whigs and tories; high-church, and low-church; conformists, and non-conformists; and such like things of no more import,

import, to the happiness, and well-being, of this nation, than long men, or short men; or fat men, and lean men; till the prevailing faction, of those days, obtained a law, under pretence of providing for the distemper of the times, by which they have lost——nay, what have they not lost?

They have lost the distinguishing character, between free-men and slaves! They have lost the distinguishing character, of Englishmen! They have lost, what the most tyrannical kings of England, could never force from them! They have lost, what their forefathers have been spending their blood, and treasure to defend, for these thousand years! They have lost the greatest jewel, that ever any people possessed! They have lost their constitutional, and natural liberty; their birth-right, and inheritance, derived from God and nature! They have lost their constitutional means of redress, for all their grievances! They have lost their all, their every thing, by that damnable septennial law; which has fettered down, the elective power of the people, like a dog to a manger, which is only suffered to go abroad, ONCE IN SEVEN YEARS, for an airing!

Let us then fling away all animosity, and tear from our hearts all party, names of discord, and evil distinction; and unite, heart and hand, as
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one man, from the east to the west, and from the north to the south, and recover, by our union, what we have lost, by our divisions. Let us carefully weed, from our constitution, all modern heterogeneous matter, that hath poisoned its principles, and established a tyranny upon the ruins of our ancient laws, and liberties.

S E C T. II.

I WILL now endeavour to point out what is necessary to be done, to establish the constitution, in some measure, upon its old foundation; without disturbing, as little as possible, the present system of things.

The decayed state of our boroughs, should be the first object of our attention, which are now reduced to the most alarming condition, and call aloud for some effectual remedy; and therefore I would beg leave to propose: That wherever there is a borough, the inhabitants in the country, round that borough, within a certain sphere, should be permitted to give their votes for the representatives of that borough. And that this general rule should take place throughout the island of Great Britain.

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I should prefer the use of the old divisions, in the land, called the rural tithings, which I apprehend to be our high-constables divisions, where they could be found; but as that may not be always the case, we must make use of parishes which are divisions very well known every where. And, therefore, I would have every parish, within a certain line, united to that decayed borough which is the nearest to it; by which means, every borough will receive an additional number of electors.

I would likewise have one general rule to establish the right of election, for every borough, or town corporate, in the kingdom. And this general rule should be the ancient rule, and the same that is now used in Westminster, and many other boroughs: where every resident inhabitant, that pays his shot, and bears his lot, should be entitled to his election, for a member of parliament, in that division to which he belongs.

This regulation is easy and practicable. It would remove all the evils, that attend the decayed state of our boroughs, without introducing any new inconveniences. It would destroy the practice of purchasing boroughs, and fixing them in private families. It would destroy all bribery, and corruption, at elections. It would destroy all riot, and disturbance; because all riot and disturbance
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proceed from bribery, and corruption; and not from numbers. And, in fine, it would give the true and honest sense of the people, for their representatives in parliament, which is the end of all election.

In order to prevent the scandalous practice of any future members of parliament, bartering away the interest of their constituents, for places, pensions, and contracts; I could wish to see the members, of the house of commons, so closely connected with the people, by some independent mode of election, always in their power, that their interests could never be separated; which would effectually put it out of the power, either of the crown, or their members, to restrain the elective power of the people.

This might easily be effected by bringing back the power, and mode of election, in some measure, to their original principles. For this end, let every city, town, borough, and cinque port elect their members, to serve in parliament, annually; as regularly as a corporation chooses their mayor, or chief magistrate. And let the same rule take place, for the members of every county; who should be elected, by the freeholders, in the same manner, annually. Let these men be styled, members-elect; and be always ready to be sworn into their office, when-

whenever the king shall think proper to assemble his parliament.

The advantages, of this regulation, are so obvious, that it is almost needless to mention them. It would effectually secure the exercise, of the elective power, of the people, to themselves, which is all in all. It would destroy all bribery, and corruption within doors, and without. It would effectually prevent the inconvenience of long parliaments; as no parliament could sit longer than one year; because the power of the fitting member would die away, and expire with the time; since he would of course be superseeded by the member-elect, for the succeeding year. And further, there would be always a house of commons ready elected, to be called together upon any emergency, that the state of the nation might require. Neither would this establishment interfere with the prerogative of the crown, in calling, proroguing, or dissolving the parliament. And lastly, it would be coeval with the constitution, and grounded upon the first principles thereof.

To which I shall add, that, in extraordinary cases, where the king would not do his duty, in assembling his parliament, when the state of the nation might require it, as was the case of Charles the first, that any twenty-five, or fifty if you please,
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of these members-elect, should be authorized to attend the king, with a petition, to pray him to assemble his parliament, agreeable to the duty of his office; which, if he refuse to do, in some convenient time, they should be empowered to issue out, such orders themselves, to the proper officer, for the time being; and the assembling of such parliament, should be deemed good in law, as if the same had been summoned, by order of the king himself.

To secure the honest elector from the resentment of any man, that might think himself offended, by his freely giving his vote, agreeable to his conscience, let it be established, as an invariable rule, that every elector shall give his vote, for a member of the house of commons, by ballot only. A house of commons, formed upon this principle, would soon rectify all grievances, and repeal, with indignation, every unconstitutional act that hath taken place before or since the revolution.

Were every resident inhabitant, that pays his shot and bears his lot, to be admitted to his right of election, in the place where he so resides; and were our decayed boroughs to be restored to their original independency, upon the plan here laid down, it would increase the number of electors to a great degree. But this, upon the present mode
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of swearing every individual, would render elections extremely tedious, and difficult to be taken. To obviate this inconvenience, I would observe, that all large bodies, ought to move in straight lines, to avoid confusion ; and, therefore, all our elections ought to take a military cast, to reduce them to order, and facilitate their election.

I will endeavour to give a plan of an election, conducted upon the principles of a ballot, under a military order :

First, let every constable, as the peace-officer, be the commanding officer, upon this occasion.

Secondly, let publick notice be given, fourteen days before the day of election, of the place where, and time when, the election is to be made. And let the names of the candidates, if they can be known, be specified ; and the time, and place of rendezvous, be appointed ; where every elector shall appear, that means to attend his election.

Thirdly, let every elector, so appearing, sign his name upon a paper ; to be called the constable's-list of electors.

Fourthly, let the people, being thus assembled, march to the place of election, being first provided

vided with the names of the candidates they intend to poll for, fairly written upon a piece of paper, or card; that the elector may be ready, to deliver it into the ballot-box without delay.

Fifthly, let one, or more large ballot-boxes be provided, and placed, in such a manner, that a whole division of electors can march by them in a single line.

Sixthly, let every constable take care to have his men, drawn up in a line, as they stand in his list; and let them march in that order, till the constable arrive at the ballot-box, where he should make a halt, and deliver his list to the clerk, or proper officer appointed to receive it; and then swear that the names of the men, therein contained, are inhabitants of his division, and that they are liable to pay their shot, and bear their lot; and as such, are entitled to their election. This being done, the clerk should call over the names in the list, as the men march slowly up to the box; that every man, may answer to his name, as he advances to put his ballot into the box, and then march on, without any stop, or delay; there being no occasion any further to swear, about the matter. The constable may then fall in with the rear of his men, and march them home in the same order they came. And the next constable,
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in the line, should succeed to his place at the box, with another division, which must repeat the same thing.

Seventhly, from these boxes, the clerks of the poll must collect the numbers for each candidate; and then the returning officer will be able, to declare the member-elect.

This apparatus should be attended with all the show, and parade, the places will conveniently afford; such as drums, trumpets, and colours, to enliven the march, and make it a day of pleasure.

It would be well if some of the common lands, belonging to many of our towns, were set apart to defray the expence of such elections; an use for which they were perhaps, originally, intended. And some of the waste lands, in every county, ought to be enclosed, and rented out, to establish a fund, to discharge the necessary expence of the attendance, of all their members of parliament, that no gentleman may be obliged to spend his private fortune in the service of his country. Or if some of the church-lands, or crown-lands, were appropriated to this service, they would be much better employed than they are at present. By this military mode, of the electors giving their votes by ballot, the elections would not take up one fourth
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of the time they do, as they are, now conducted. And when the people, of this kingdom, shall forget their own dignity, and importance, or shall be so far lost in luxury, corruption, pride, and laziness, as not to attend upon this business, a few days in every year, they must then submit their backs to the whip, and patiently endure the correction of slaves. For election and liberty, are synonymous terms, and where annual election ends, there slavery begins.

The only effectual remedy the people of England have now left, for the redress of their grievances, is to enter into legal associations, in defence of their constitutional rights, and liberties. The head of these associations should be in London. And the friends to the constitution, in every market-town in England, should establish the like there; and mutually correspond with each other, that they may act in concert, for the public good. I could even wish to see, a constitutional club established in every parish; that, if there be as much publick virtue still left, in this country, as will be able to save it, it may be found. The following resolves, should be the grand object of these associations:

I. Resolved, That we will hand down to posterity, sacred, and secure, all the rights, liberties,
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and franchises of the people of England ; which God, and the constitution, have handed down to us, from father to son, for thirteen-hundred years.

II. Resolved, That we will, to our utmost power, endeavour to restore our ancient decayed boroughs, to their original splendour, and independency, in point of election for members to serve in parliament; that we may not, for the future, be bought and sold like oxen.

III. Resolved, That we will not give our votes, or interest to any known placeman, pensioner, or contractor whatever, to be a representative in parliament ; because by so doing, we confound the executive, and legislative authority together ; which, in our constitution, should for ever be kept separate.

IV. Resolved, That to elect placemen, pensioners, and contractors, into the house of commons, is intrusting our money, in the power of those, who will apply, as much of it as they can, to their own use.

V. Resolved, That to elect placemen, pensioners, and contractors, into the house of commons ; is to elect the same men that ought to call
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all placemen, pensioners, and contractors to an account.

VI. Resolved, That by so doing, we defeat all inquiry into the waste of publick treasure; and put it in the power of these men, to vote, in the house of commons, that the publick money is best disposed of, when it is most put into their own pockets.

VII. Resolved, That we will not give our votes, or interest, to any man that will not, while he is a candidate, promise, under his hand in writing, to move, and vote, in the house of commons, when he becomes a member, for the repeal of the SEP-TENNIAL LAW; by which every Englishman, is debarred the constitutional exercise, of his elective right; by which the first principles of our constitution are openly evaded, and the people left, without a remedy, for their grievances.

VIII. Resolved, That we will not give our votes, or interest, for any man that will not, while he is a candidate, promise, under his hand in writing, that he will, when he is a member of the house of commons, move, and vote, for the repeal of that law, for the landed qualification for members to serve in parliament; by which our free constitution is changed into a mean, selfish, aristocracy.

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IX. Resolved, That we will not give our votes, or interest, for any man that will not, while he is a candidate, promise, under his hand in writing, that he will, when he becomes a member of the house of commons, move, and vote, for the establishment of ANNUAL ELECTIONS, for representatives to serve in parliament, grounded upon such constitutional principles, as shall not, for the future, be evaded either by prerogative, or acts of parliament.

Let the people of England only contemplate, their own strength, dignity, and importance in the state, and they will soon find, that the constitution hath placed in them, such an influence over the legislative authority as must command all the rest. And that their deputies in parliament, are only the constitutional medium through which the people exercise their authority. For to make use of the gamesters phrase, the people of England have all the game in their own hands, and have only to play their cards honestly, and support one another in every thing, that relates to their rights and liberties.

CHAPTER IX.

Of the right and power of Juries.

THE trial by Juries is one of those important blessings, bestowed upon the English people, which were introduced into this kingdom with our constitution. It is a peculiar privilege which no nation, in the known world, enjoys besides the English; and was intended as a strong barrier, or fort of defence, always lodged in the hands of the people, to secure them against all tyranny, slavery, and oppression.

As the English people cannot be bound by any law, without the consent of their representatives, first had in parliament, so neither can any Englishman suffer, in his person, or estate, for the breach of any law, or real, or pretended crime, without the consent of the people first had by a Jury of his peers, or equals: That the life, or property of an Englishman, might not be exposed by false accusations, or the venality of officers appointed to administer the law.

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It was too sacred a depofite, to be trusted with any one man, or any body of men whatever. And, therefore, they fuffered no man to determine, in their courts of law, upon the life, and liberty, of the people, without the consent, and approbation of TWO JURIES, fworn upon the occafion : one called the Grand Jury, to find the criminal matter of accusation, or, as it is commonly called, to find the bill ; and the other, the Petty Jury, to try the caufe.

The intent of a grand Jury, is expreffed in a ftatute of the 25th of Edw. 3. 4. and 42d of Edw. 3. 3. which fays, “ That for the preventing of mifchiefs done by falfe accufers, none fhall be put to answer, unlefs it be by prefentment, or indictment of good and lawful people, of the fame neighbourhood where fuch deeds be done.” That is to fay, by a grand Jury. This was the ancient law of the land, and confirmed by this ftatute.

Tyranny hath invented, at different times, many ways to fubvert, and undermine, the right and power of Juries. But the modern mode of doing it was by the eftablifhment of the ftar-chamber court begun about the reign of Henry the feventh, and which continued increafing in power, and authority, down to the reign of Charles the
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first; when *ex officio* informations, and attachments, raged like a pestilence, and threatened destruction, to every man that durst oppose the arbitrary measures of the court.

By *ex officio* informations, and attachments, they brought people to answer in the star-chamber, or before the king's-council, for any thing they chose to call a crime, and made use of no other law than their will, to judge both of the crime and punishment. So that many gentlemen were brought before the star-chamber court, and condemned, to pay large fines, and suffer long imprisonments, with many aggravating circumstances; such as being refused the use of pen, ink, and paper, and denied the assistance of their wives, and families, to administer comfort to them, in their distress, without any Jury, or lawful cause appearing. And, therefore, by an act of the 16th of Charles the first, chap. 10. the star-chamber court, and all the modes of practice by attachment, information, or otherwise, were totally abolished, and done away, notwithstanding any *custom, usage, or statute, to the contrary.*

But in the reign of Charles the second, when he had obtained a corrupt house of commons, they suffered him, and his administration, to break through all laws, both human, and divine. For,

as a certain author observes, they were worse than dumb dogs; they not only neglected to defend, and guard the sheep, but, on the contrary, they themselves protected, and assisted the wolves, to devour the sheep. And, notwithstanding the law of Charles the first (above recited), the practice of proceeding by *ex officio* informations, and attachments, continued common in this reign; for they only changed the court, from the star-chamber, to the king's-bench, which became almost as oppressive, and vexatious, as the star-chamber court had ever been.

Thus it continued till the revolution, when there was a violent struggle to abolish the practice entirely, but it only ended, like many other things at that time, in establishing the evil by an act of parliament. For, by the 4th and 5th of William and Mary, it was established with this limitation, That no information should be filed, without the consent of the court of king's-bench. But this was no relief, to the people, in respect to the ground of their complaint. For this law still prevented the inquest by GRAND JURIES, and obliged the people to answer in expensive, and vexatious suits with the crown, contrary to the usual mode by presentment, or indictment, agreeable to the ancient law of the land, and the statute, of Edward the third, before mentioned.

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It makes a vast difference, between an information brought before the king's-bench, and before a grand Jury. In the first case, the officer of the crown, never fails to meet with the countenance of the court, by which he is permitted to harrass, and perplex the subject, with tedious and expensive law - suits. Whereas, before a grand Jury, he would generally find himself a FALSE ACCUSER, and his information thrown out with an *ignoramus*. So that by this law, of William and Mary, whenever the attorney-general thinks proper, to prosecute his information to an issue, the safety of the person, and property of the subject, must now wholly depend upon the verdict of one single Jury, empannelled for the trial. And, therefore, I shall mark this revolutionary law, as the first approach to evade, and take away the right, and power of Juries, by acts of parliament.

Notwithstanding this great privilege of the English people of trial by Jury, yet we have heard that the chicanery and influence of the judge, in courts of justice, have been too often successfully employed to mislead the minds of the Jury, to gain a verdict in support of tyranny and slavery. May such judges meet with the fate of judge Jefferies, and such Juries with a full measure of their own ignorance and temerity. Can such JURIES deserve less, who, forgetting their own weight and impor-

tance, are over-awed by a servile fear, from doing what is right and just, lest they should offend the mandates, of an imperious, timeserving judge? For so long as tyranny can, this way, make the people instruments to destroy one another, it needs no other power to accomplish their ruin.

I shall conclude this chapter with a few quotations, from an old author, upon the right, and power of Juries. “As the office of Juries (says he) is of such great importance, to the life and property of the subject, so the wisdom of our law hath provided that the same shall be supplied with persons of ability, honesty, integrity, and indifference. By the law every jury-man, that is returned for the trial of any issue, or cause, ought to have three properties. First, he ought to be most sufficient for his understanding. Secondly, he ought to be dwelling most near to the place, where the question is moved. And, thirdly, he ought to be indifferent to the parties, and matter in question. And then he is accounted, in law, a free and legal man. Otherwise he may be challenged, and not suffered to be sworn.

“Dr. Cowel tells us that Juries, in former times, used to sit with the judges in a kind of equality, whereas now a-days they attend them with great
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humility. But many wise and learned men have wondered, that since the law hath conferred, the right of judgement, in the Jury, why they should have no mark of honour, or distinction.

“ Among other devices to undermine the rights and power of Juries, and render them insignificant, there has lately an opinion been advanced, That they are only judges of fact, and are not at all to consider the law. So that if a person be indicted for a fact, which really is no crime in itself by law, but is only worked up by words of wicked meaning, such as TREASONABLE, SEDITIOUS, LIBELLOUS, &c. if the fact be but proved to be done, though the said wicked circumstances do not appear, the Jury are to take no notice of that, but to bring in the man guilty, and leave the consideration of the crime and punishment to the court. Thus some people argue. But this is an apparent TRAP, at once to perjure ignorant Juries, and render them so far from being of good use, as to be only tools of oppression to ruin, and murder, their innocent neighbours with the formality of law.

“ Where the act or naked matter of fact charged, is a crime of offence against law, such as killing a man, levying of war against the king, or stealing, these facts being proved to be wilfully done, is all
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that is necessary to prove the man guilty. But where the act, or naked matter of fact, is in itself innocent, or indifferent, in that case the criminal intent that it was done maliciously, with such or such a design, as that it was done with a treasonable, seditious, or libellous INTENT must be proved, otherwise there is no CRIME PROVED, and consequently no fit matter to be put to a trial; in that case the grand Jury is bound, in conscience, and law, to return an *ignoramus*, and a petty Jury not guilty.

“Some Jury-men may say, If we do not find according to evidence, though we have reason to suspect the truth of what they swear, or if we do not find as the judge directs, we may come into trouble, the judge may fine us, &c.—I answer, this is a vain fear. No judge dare offer any such thing: you are the proper judges of the matter before you, and your souls are at stake, you ought to act freely, and are not bound, though the court demand it, to give the reasons why you bring it in thus, or thus.

“But to satisfy you that a Jury, is no way punishable for giving a verdict according to their conscience, though against seeming evidence, and the reasons why they are and ought not to be questioned for the same, I shall here recite an adjudged

judged case, reported by the learned Sir John Vaughan, whose book is licensed by the lord chancellor, the lord chief justice North, and all the judges then in England. The whole well worth reading, but I shall only select certain passages.—The case was this.—

“ Bushel, and others of a Jury, not having, at a sessions, found Pen and Mead (two quakers) guilty of a trespass, contempt, unlawful assembly, and tumult, whereof they had been indicted, were fined forty pounds a man, and committed till they should pay it.

“ Bushel brought his *habeas corpus*, and, upon the return, it appeared that he was committed.—“ For that contrary to law, and against full and clear evidence openly given in court, and against the directions of the court, in matters of law, they had acquitted the said Pen and Mead to the great obstruction of justice, &c.” Which, upon solemn argument, was by the judges declared to be an insufficient cause of FINING and COMMITTING them, and they were discharged, and afterwards brought their actions for damages.

“ The reasons of which judgment are reported by judge Vaughan, and amongst them he useth these that follow, which I shall give you in his
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own words. “ One fault in the return is, that the jurors are not said to have acquitted the persons indicted, against full and manifest evidence, corruptly, and knowing the same evidence to be full, and manifest, against the persons indicted : For how manifest soever the evidence was, if it were not manifest to them (the jurors), and that they believed it such, it was not A FINABLE FAULT, NOR DESERVING IMPRISONMENT: upon which difference the law of punishing jurors, for false verdicts, principally depends.

“ I would know whether any thing be more common, than for two men, students, barristers, or judges, to deduce contrary and opposite conclusions, out of the same case in law ? And is there any difference that two men should infer distinct conclusions from the same testimony ? Is any thing more known, than that the same author, and place in that author, is forcibly urged to maintain contrary conclusions, and the decision hard which is in the right ? Is any thing more frequent, in the controversies of religion, than to press the same texts for opposite tenets ? How then comes it to pass, that two persons may not apprehend, with reason and honesty, what a witness, or many say, to prove in the understanding, of one, plainly one thing, but, in the apprehension, of another, clearly the contrary thing ? Must, there-

therefore, one of these merit FINE AND IMPRISONMENT, because he doth that which he cannot otherwise do, preserving his oath and integrity ? And this is often the case of the judge and the jury.

“ If the meaning of these words (in the return), finding against the direction of the court, in matters of law, be, that if the judge having heard the evidence given in court (for he knows no other) shall tell the Jury, upon this evidence, “ The law is for the plaintiff, or for the defendant, and you are under the pain of fine, and imprisonment, to find accordingly ; and the Jury ought in duty so to do ;” then every man sees, that the Jury is but a troublesome delay, great charge, and no use in determining right, and wrong ; and that therefore the trials by them may be better abolished, than continued : which were A STRANGE NEW FOUND CONCLUSION, AFTER A TRIAL SO CELEBRATED FOR MANY HUNDRED YEARS.

There are many other ways by which evidence, may appear to a Jury, which doth not appear in court. “ First, the Jury being returned from the [vicinage, or place, where the cause of action ariseth, the law supposeth them to have, thereby, sufficient knowledge to try the matter in issue (and so they must), though no evidence were given, on
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either side, in court; but to this evidence the judge is a stranger. Secondly, they may have evidence from their own personal knowledge, by which they may be assured, and sometimes are, that what is deposed in court is absolutely false; but to this the judge is a stranger, and he knows no more of the fact than what he hath learned in court, and perhaps by false depositions, and consequently knows nothing. Thirdly, the Jury may know the witnesses to be stigmatized, and infamous, which may be unknown to the parties, and consequently to the court. It is absurd to fine a jury for finding against their evidence, when the judge knows but part of it; for the better and greater part of the evidence, may be wholly unknown to him, and this may happen in most cases, and often doth.

“ To what end is the Jury to be returned out of the vicinage, where the cause of action ariseth? To what end are they challenged so scrupulously, to the array and poll? To what end must they have such a certain freehold, and be *probi & legales homines*, and not of affinity with the party concerned? To what end must they have, in many cases, the view for exacter information chiefly? If, after all this, they IMPLICITLY must give a verdict by the dictates, and authority of ANOTHER MAN, under pains of fines, and imprisonment, when
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sworn to do it according to the best of their own knowledge? A man cannot see by another's eye, nor hear by another's ear; no more can a man conceive by another's understanding, or reasoning; and though the verdict might be right which the jury give (by the direction of the court), yet they being not assured that it is so, from their own understanding, are forsworn, at least *in foro conscientiae*."

"I conclude therefore, That this return, charging the prisoners to have acquitted Pen and Mead, against full and manifest evidence, is no cause of FINE, OR IMPRISONMENT." It appears, by a note upon the margin, that of this mind were ten judges out of eleven. The chief baron Turner gave no opinion, because not at the argument."

Thus far judge Vaughan, which is a piece of fine, close, strong reasoning, and full to the matter before us; to show that an English Jury are, at all times, the only judges to determine of EVERY PART OF THE MATTER in issue, and that they are bound by nothing, in their judgment, but the free dictates of their own conscience.

This old author concludes his book with a prayer, "That Almighty God would preserve our

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most gracious king, and defend us from religious tyranny, a foreign yoke, and domestick slavery, and continue to us the enjoyment of OUR GOOD OLD LAWS, LIBERTIES, AND PRIVILEGES, and bring all those to exemplary justice, that have, or shall dare attempt to subvert, diminish, or undermine them :” To which I say, AMEN.

CHAPTER X.

The constitutional right of the British parliament, to tax our distant provinces, explained and justified.

WE are now arrived, at the last division of our work ; which is to consider the relation that subsists, between Great Britain and her colonies, with respect to the power of the legislative authority to tax them, without being represented in parliament, by members of their own election : or in permitting them to tax themselves, in their own provincial assemblies.

All lands, in our distant provinces, that are acquired at the expence of the people of England, either by conquest, treaty, purchase, or by any other title, from that moment become their property ; and consequently are, at all times, subject to the order, and direction of the legislative authority. Every Englishman, to whose happy lot it fell, to enjoy this new country, was bound, before his embarkation, by the determination of our acts of
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parliament ; and subject to pay his share of all imposts, and taxes, that were granted to defray the national expence, of the government, equally with the rest of his brethren, in the like circumstances.

If then the lands, and the people that were to occupy these lands, were equally subject to the authority of parliament, before their embarkation, they must be so still. Because there is no authority in our state, but what is inferior to that authority : and no inferior authority can discharge them from their obedience to the authority of parliament ; or release them from doing their duty, to the commonwealth, whenever the state shall require that duty from them.

To release the Americans, from the authority of parliament, in point of taxation, in any degree, is a matter of that importance which concerns not only this generation, but all future posterity. It is not like a bad act of parliament, which, by repealing it, you may repeal the evil ; but it is an act, of the nature of suicide, which destroys the being by the very act itself. It would dissolve the community, raise a state within a state, propagate perpetual quarrels, and lay the foundation for the final destruction of the British empire.

It would give a more fatal blow to the glory, power, and strength of Great Britain, than could
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be effected by a combination of the whole family compact. While united we may bid defiance to the whole world. But being divided, we shall become subject to the insult of every petty state in Europe. In a word, the nature of government doth not admit of any other mode of union, in one state, but by the equitable acts, and laws of one legislative authority.

When the plan of colonizing, the lands in America, was adopted, it was adopted for the general good of the whole community, and not for the particular good of the settlers. And that general good is the condition, upon which the inhabitants of America hold their lands, as members of one and the same community; but as members who have placed themselves, for the enjoyment of these lands, at such a distance from home, as excludes them from the exercise of their right of election. And the people of England, assembled in parliament, in their legislative capacity, are the only judges what that general good shall be, and how it ought to operate, at all times, and upon all occasions; when any subject relating thereto, may become an object of their attention.

It hath always been the custom in England, upon any national business, that required council
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and strength, to incorporate, by letters-patent, certain men, with a power sufficient to accomplish the business for which they were incorporated. The king, who is in the constant exercise, of the executive power, in the state, always did the business of the state; and, therefore, it immediately falls within his province, to see any plan, of national utility, put into execution; and to authorize the acting parties by a writing, vesting them with certain powers, for the accomplishment of the business which is to be done. Which writing, when properly authenticated with his hand and seal, is commonly called the king's-charter, or letters-patent. Upon this principle, the king can grant, any charter, for the good of the community; but he can grant no charter, to the injury of the community; and much less can he exclude, any part of his subjects, from the authority of parliament, and particularly respecting the power of their taxation laws.

The business, now before us, to be considered, is the peopling, a new discovered country, with English inhabitants; a business, at first, as new to the English, as the country they were to inhabit. To establish colonies in any country, is very expensive, and uncertain as to the event; and they are, at best, very slow in their progress, and advancement to maturity.

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The mode made use of, by the state, to people this new country, hath been various, at various times; but the general method hath been to vest a property in the lands, in a select number of men; upon condition, that they divided it amongst such of the English families, as chose to partake of that benefit. This was done with an intent, that the infant colony might be under the immediate care of a body of men, whose interest should direct them, to promote the establishment of the colony, with all their power; because the value of the land would increase, just in proportion to the number of inhabitants that should settle upon it. Such was the mode, and such were the motives, by which the lands, in North-America, were at first divided? and which are now distributed, among three millions of English people.

It is surprising, that it could ever enter into the head of any man, that these new lands, are not as much subject to the taxation laws, of the parliament of Great Britain, as the old lands. Or, in other words, that the people, on the other side the Atlantick, are not as much subject to pay taxes, as the people on this side the Atlantick: since they are equally protected, by the same fleets, and armies, from the attack of all their enemies. It never was the intention of the government, to establish

establish a new state independent of the old one ; which it must be, if our colonies are independent of the legislative authority of the old one, in any degree ; especially in their taxation laws.

As to the form of the internal police of the government, of the colonies, it was left, for some time, to the care of the patentees who established, some one kind of government, and some another ; as their fancy, interest, or inclination directed them. And this continued till time had declared the successful event of their undertaking ; and the colonies had arrived at a certain degree of strength and permanency, which afforded a prospect of stability, and duration. It then became necessary, for the general good of the whole community ; and for the future well being, and prosperity, of the colonies in particular ; that a more uniform, and regular mode of government, should be established amongst them, for the future.

It may not be amiss to recall to mind, that our Saxon forefathers made use of the same mode of government for a shire, as for a kingdom. And the same rule was observed then, as is now, in some of our great cities, which are made towns, and counties of themselves ; or, if you please, towns and shires of themselves ; from whence comes that similitude between the government of
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our cities, and the government of the kingdom, at this day.

It was from this principle, of the government of our cities, that the crown formed, and established, with a little variation, the plan of government, for the colonies. There, the governor, council, and house of representatives, are vested with the same authority, as the lord-mayor, aldermen, and common council, of the city of London. They are vested with a power, to keep the peace, to punish offenders, and to do all acts of justice, amongst themselves. And as such, they have a power to make laws, for the good government of the colony, under the inspection, and correction of the administration at home; by which they can provide for the internal police, and expence, of the administration of the government, within the colony.

And hath not every county, and town in England, at this day, their separate powers to provide for the internal police, of their respective communities, and to charge the expence upon the inhabitants? But is all this any provision for the publick defence of the state, or the whole community in general? No, independent of this, there is a duty owing to the whole united community at large; by which every man, in the British Em-
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pire, is obliged, by all the laws of justice, equity, and reason, as well as the constitution, to contribute his share (in proportion to his property), to the national expence of the state; necessarily incurred for the defence, protection, and government of the whole community in general. And, therefore, I would have it particularly remarked, that the expence, of this internal police in England, was never considered as a national expence, or ever brought to the national account at all; but was merely local, and confined within the respective divisions, into which the country was divided.

So long as our provinces were in their infancy, it was acting the part of a tender parent to indulge them, by relieving them from all national expence; since which, we have continued our tenderness, to a criminal excess, both in time, and degree. But now that they are become able, we call upon them to do their duty, in a national capacity; by contributing their share, to the expence of the state, with the rest of their brethren at home.

The power of providing for this national expence is the point of contest, between Great Britain and her American colonies. Amongst the resolves, of the representatives of the Massachuset's-Bay, unanimously passed in a full house, on July the 8th 1769, we have their sense upon this matter. And
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though the rest of our colonies, in America, may not have expressed themselves so clearly, yet their conduct fully manifests the same opinion.

I shall give one of their resolves, as we have it in the publick papers: "Resolved, as the opinion of this house, that the sole right of imposing taxes, on the inhabitants of this his majesty's colony, of Massachusset's-Bay, is now, and ever hath been, legally, and constitutionally vested in the house of representatives, lawfully convened, according to the ancient and established practice; with the consent of the council, and of his majesty the king of Great Britain, or his governour, for the time being."

I could have wished that the gentlemen, of the house of representatives, in the Massachusset's-Bay, had been more explicit with respect to the ground, upon which they found their opinion, for it is no uncommon thing, to find bodies of men resolving, what they have no right to resolve. They say the sole right of taxing, the people of their province, is vested in them by law, and the constitution. I should be glad to know by what law, or upon what principle of the constitution, they find that right vested in them. If they had confined their right of taxing, the people of their province, to pay the necessary provincial expences, of the inter-

nal police of their province, there could have been no objection.

But if they mean to say, that they have the sole right of naming the sum of money, and taxing the people, of their province, to pay that sum, which they ought to contribute towards the necessary expence, incurred for the defence and protection, and government of the whole community, of which they are only a part; I will take upon me to answer, That their opinion is neither lawful, constitutional, just, nor reasonable. If they have got an act of parliament, by which they are vested with such a power, let them shew it; and then we shall be all satisfied, that the gentlemen, of the Massachusets-Bay, are exempt, by that law, from the national rule of taxation: and that they are permitted to live, without paying any taxes at all, towards the national expence; or only just as much as, they shall please to afford, out of their own bounty.

There is no principle in our constitution, neither was it ever the ancient practice (I do not mean the ancient practice of the Massachusets-Bay), I mean the ancient practice of England for thirteen hundred years past, that any part of the community, had a right to tax themselves, to defray the national expence of government. Let them take it
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at any point of time they please, even as far back as the Saxon period before the conquest, when the constitution was in its perfection ; when every shire was a distinct province, as much as they are now ; and a complete government of itself, so far as to provide for the civil, and military government of the shire ; which they did in their shire-gemots, or shire-assemblies, amongst themselves.

But when any national expence became necessary, for the good of the whole, it was absolutely necessary that a power should be lodged some where, to tax the whole, and not to suffer every shire to tax itself ; and they very wisely vested that power, in the hands of a select number of men, who were elected for that purpose ; and who were to decide upon that point, by a majority of voices, which bound the whole community at once ; and this put an end to all contest about the matter. Whereas, on the contrary, had the shire of York, for instance, come to the same resolution THEN, as the province of the Massachusetts-Bay hath now, it would have been a direct violation of the constitution, and an attempt to dissolve the community, as far as in them lay ; and had they succeeded, must have brought on the destruction of their old mode of government, which we call the constitutional law of the land.

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However, not to go so far back as the Saxon period, we have an example in the city of London, which is a town and county of itself, and whose government is established upon the old constitutional principle; where the mayor, aldermen, and representative body of men, have a power of taxing the inhabitants, to defray the expence of both the civil, and military government of the city; yet, notwithstanding this, they are taxed in common, with the rest of the people, for the national expence of the state.

Our constitution hath divided, the country and people, into parts; and so far as concerns the internal police of the country, they are independent one of another. But the same constitution hath united, all these parts into one whole; and made them all obedient to the acts, and laws, of one legislative authority. There cannot be a greater absurdity supposed in government, than to admit two legislative authorities in one state, independent of each other. But upon this North American principle, we shall not only have two, but we may have fifty-two. For, according to them, in every province we are now, or may hereafter, become possessed of; where we provide for the internal police of the country, upon the English constitutional principles; there we are to establish a legislative authority, independent of the legislative authority of
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Great Britain. Such a principle as this can, in its own nature, produce nothing but disorder, and strife ; is incompatible with the peace of all society, and every principle of our constitution, and not to be admitted without their destruction.

The predominant principle in our constitution, in this respect, is to unite many parts, into one whole ; but this reverses our constitutional principle, and divides one whole into many parts. Our happy constitution cements, and unites the whole together, by an equality of rights, and an equality of expence ; which together produce strength, peace, harmony, and order.

Let us now see how the people, in our distant provinces, are situated, with respect to the exercise of their constitutional rights of election, for members to serve in parliament. And as this seems to be the ground, on which they build their main strength, and from whence they draw all their arguments, I will endeavour to give it a particular attention, and describe how the constitution operates, with regard to them.

Let it be remembered, that the government of England is founded upon the common rights of mankind ; where the elective power of the people, forms the most essential part of the legislative authority.

thority. And let us also remember, that the king is in the constant exercise of his executive power, which is creative of wants, which himself cannot supply ; and, therefore, he must always have his parliament within his call, that he may procure their advice and assistance, whenever they are wanted. In the king is placed the seat of all intelligence, and information, from all quarters of the world, where the British empire is concerned ; by which, he is enabled to know what dangers, and difficulties, obstruct the welfare, and happiness of his people in general. Therefore he is the only person, that can be able to inform his parliament of the truth, and what means are to be taken to remove these obstructions ; and to estimate the expence that will attend the same.

Were it otherwise, no king of England, would be able to extend his care, or to execute any plans he may have formed, for the mutual benefit of his people. He could not fit out fleets, and armies at home, for the protection of his distant provinces, without there were a power at home, which he could depend upon, that is both able, and willing, to support him, in all his just measures ; and provide, for the necessary expence, at all events. This, of itself is sufficient to shew the necessity of confining, the formation of the legislative authority, within the immediate call of the king. And
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hence it is evident, that the formation of the legislative authority, in a state that is founded upon a delegated power like that of England, must be in the hands of the people, where the seat of government is placed.

At the restoration of the constitution, in the reign of Henry the third, under the sanction of our great charter, the power of election was vested in the inhabitants of certain cities, boroughs, towns, ports, and the freeholders of the respective shires, or those interested in the land; and no man, that did not fall under some one of these denominations, had any power of election vested in him. From whence it evidently appears, that no Englishman, barely considered as such, hath any power of election, for a representative to serve in parliament.

Upon this principle it is, that the people of our new great towns, such as Birmingham, Manchester, and many others, have no power of election vested in them; and consequently have no representatives in parliament, of their own election, at all. And therefore, the people, in our distant provinces, are precisely, and literally, in the same situation as the people in these great towns, and all the villages, and open country, which contain thousands, and tens of thousands of people, in Great Britain, who have no power of election; and consequently

have no representation, in parliament, any more than the Americans. Yet all this multitude of people, who have no power of election, would receive no damage from not being electors, provided there was a competent number of electors, in every place of election, so as to secure a constitutionally free, and independent house of commons. As long as this is the case, it is of no consequence, who elects them; for every man, that is not an elector, may receive the full benefit of our constitutional mode of government, as much as if he were an elector. Yet every Englishman, as such, whether he be born on this, or that side the Atlantick, hath a right to take up his power of election, whenever he pleaseth to connect himself, with some one of those towns, or become a freeholder; so as to satisfy the customary mode, by which every other man obtains the power of election.

But if this elective power were constitutionally so fixed, to the person of an Englishman, that it must travel with him, into any part of the world, where ever he should think proper to settle; and that he should have there, the same constitutional right, as he had in England, to elect representatives, to serve in the parliament of Great Britain, which is the point contended for; in that case, we should be obliged to collect our legislative authority, from
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the four quarters of the world, whenever Great Britain shall think proper, to establish colonies, in Europe, Asia, Africa, and America.

It is the determined law of election, that every man, who is vested with the power of election, shall exercise that power in person, upon the spot from whence he derives that power. For if I be an housekeeper, in the city of Westminster, I am an elector for the city of Westminster, so long as I continue there. But if I leave the city of Westminster, and never return, I lose my power of election, and never recover it. Or if I be a liveryman, of the city of London, and retire from London, though the right of election will still remain in my person, yet I cannot exercise that right, without I return back again, to the city of London.

In like manner it is, with every man who leaves his native country, and lives in our distant provinces; he willingly, and voluntarily relinquishes the exercise of his elective power, in favour of something more substantial; and can never, constitutionally, so long as he continues there, exercise that right, in the election of any member, to serve in the parliament of Great Britain. All members, of any society, must submit, and fall in with the constitutional laws of that society, to which they belong; and not expect that the laws

of the constitution, are to give way to them. For, upon that principle, a constitution would be continually fluctuating, in order to accommodate itself to every change of things, that might happen.

It is the constitution itself (which must operate, upon the spot, where the seat of government is placed), that refuses our distant provinces to exercise their elective rights, for the election of representatives, to serve in parliament. For as they have placed themselves at such a distance, they have put it out of their own power, to be electors; but, in every other respect, they may receive the full benefit of the constitution, as much as any man at home. But to say that no Englishman is to be taxed, without his consent, either in person, or by his representatives is merely sound without sense, and not true in fact; but must be limited, by the constitutional mode of taxation, which only requires, that no Englishman shall be taxed, without the consent of a representative body of men, in parliament. Were it otherwise, as I have said before, a government founded upon the common rights of mankind, could never advance beyond a certain limited point, or form any advantageous plans by the extension of their territory, for the mutual benefit of the whole community.

The honest end, of our American brethren, in proposing these unconstitutional expedients, seems

seems to be to obtain that protection, and security, which they are constitutionally entitled to; and which they are apprehensive, at their distance from the seat of government, they will not be able, otherwise, to procure. And it must be confessed, in justice to them, that we have given them some cause to doubt our intention, by the partial mode of the stamp-act; in which we have attempted, to tax our American brethren, as a separate, and distinct people from ourselves; which, without doubt, would deprive them of that perfect security, and confidence in government, which our constitution so amply affords. And, therefore, it is no wonder, that they are looking out for some other expedient, by which they may obtain that security, which we have so notoriously attempted to destroy.

Nothing will contribute so much to the peace, harmony, and order of our distant provinces, as a thorough conviction, in their own minds, that they are perfectly secure in the enjoyment of all their constitutional rights; and that no partial laws may affect their property, by which they can be charged more, for the expence of government, than what in justice, and equity, they ought to pay. But this confidence can never be had, from the dependence on the administration, of any set of men whatever. No, it must be obtained upon the
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the true and fixed principles of the constitution itself; and those alone.

The ground of all security, for every man's person, and property, both at home and abroad, is a thorough reformation of the constitution in all its parts; and that it be established, upon a foundation never to be shaken, by any acting parties in the state. And this is the first thing, that our distant provinces should endeavour, by every legal method in their power, to have done. And they have the more reason to expect this to be done, because many innovations have taken place during their absence; or, in other words, since the first establishment of the colonies. Without it, they do nothing; all other expedients will prove false, delusive, and of no effect. If this be once done, our constitution then affords a mode of taxation, which would effectually put it out of the power, of our distant provinces, justly to complain: And would at all times secure, and protect them from paying more, than their equitable share, of the national expence, necessarily incurred for the defence, and protection, of the whole community considered together; which is all our brethren, in the distant provinces, can honestly desire; and as much as Great Britain has to demand. This I will endeavour to explain in the manner following:

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When I consider Great Britain, as divided into separate counties, or shires, which are all independent one upon another ; I consider her as divided into so many parts, of one whole. But when I consider her, in her legislative capacity ; I consider all these parts as united into one whole. In like manner, I would, politically, consider the whole British Empire; which is composed of many parts, as united into one whole ; let the geographical distance, be what it will. This being properly understood, and constantly adhered to, will afford a ground for that constitutional security, I have before asserted. Upon this principle, let all our taxation laws, become general laws, and affect every part of the community alike ; so that no tax may be paid, by our distant provinces, but what we shall be obliged to pay, in the same manner, and proportion, at home.

By this equitable rule, no man, in the British Empire, can apprehend any injury, from any partial distribution of taxes ; and every man, let providence have placed him where, and in what condition soever he may, will have the satisfaction to know, that he pays no more than every other man, in the like circumstances, at home. When the house of commons, first entertained the intention of taxing, our distant provinces, by a stamp-duty, they ought first to have repealed our
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stamp-act, and then to have made a new one; which should have extended over all our distant provinces. In that case, the stamp-act would have been established, upon the true constitutional ground, and mode of taxation; by being an equal tax, and affecting the whole community alike.

Upon this solid foundation, our distant provinces must have the same benefit, of our elective power, as we have ourselves; for we cannot take care of our own interest, without taking the same care of theirs. Neither can we hurt them, without hurting ourselves; our interests, and welfare being mutual. And this is the constitutional security that every man in England, receives, at present who is not an elector. And it is the same security, to our distant provinces, as if they were actually represented, by members of their own election. For even supposing they had, a majority of members, in our house of commons, what could they do more for themselves than this? They could not, with any honest face, tax poor old England at more than they would tax themselves.

This mode of taxation is so obviously practicable, that little needs be said about it; because an act of parliament, so constituted, will evidently operate the same in Boston, or Jamaica, as it will in Yorkshire. Let us enlarge upon this point, a
little

little : The poor man, who earns his bread for his family by the labour of his hands, should never be taxed, by taxing the necessaries of life in single articles. All taxes, in a state, ought to be paid by the property in the state ; and this property is of two kinds, it is either fixed, or moveable. The fixed property, I call all lands, and houses ; and the moveable property, money, and merchandize ; or any other thing that is moveable, from place to place. And if all the necessary expence, of our government, were proportionably divided between these two kinds of property, in the whole British Empire ; it would be very little felt by any individual.

Since the revolution, we have increased our expence, by maintaining an army of soldiers ; an army of excise-officers ; an army of custom-house officers ; an army of stamp-officers ; an army of licence-officers ; and an army of useless placemen, pensioners, and contractors ; all which, annual parliaments would soon reduce, within their due bounds. Four of these are principally employed in collecting the taxes, upon the moveable property ; and the necessaries of life ; of which, perhaps, above one half is consumed by this mode of collection.

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There are two taxes, that are still collected upon the old mode ; which we may consider as substitutes to the imposts, formerly granted, by parliament, called subsidies, tenths, and fifteenths ; which were taxes generally granted upon the fixed, and moveable property, and collected by the officers of the parish : which were collected without expence, and came neat, and clean, into the exchequer. Such now is the tax upon land, and the tax upon houses and windows ; which are both collected with little or no expence, and are taxes upon the fixed and moveable property.

All taxes that are payable by the tenant, whether they be rated upon the house, or the number of windows, are only different modes of taxing the moveable property of the inhabitant of that house ; which operate in proportion to the circumstances a man appears to live in : as a man, of great property, is supposed to live in a great house, and a man, of small property, in a small house ; and hence the tax, upon the inhabitant, will be accordingly. And, therefore, if two taxes, one payable by the tenant, and the other by the landlord, and both rated upon the rents of all houses, and land, and divided in proportion to the value that the moveable property bears, to the value of the land, then these taxes would be upon a just, and equal foundation ; and would be the best rule that
could

could be adopted, to raise the necessary supplies of the state. But the misfortune is, that, as it now stands, our governors being all rich in land, reduce the land-tax, and raise the tax upon windows ; by which means they relieve themselves, and throw the burden upon the moveable property, in the hands of the tenant.

In order to remedy this evil, let a calculation be made, as near as a thing of that nature will admit of, what proportion the moveable property bears, to the value of the land ; and let the tax, payable by the tenant, be laid upon the rent of the house, and not upon the windows. And let this tax be in some proportion to, and always regulated by, the land-tax ; which would effectually prevent one kind of property, from tyrannizing over the other. For instance, we will suppose the moveable property, to be one third of the value of the land. So that suppose an estate, in land, calculated upon this principle, which will rent at one hundred pounds per annum, to be worth three thousand pounds, and the stock, upon that farm, to be worth one thousand, then the moveable property, will be one third of the value of the land.

The same rule will hold good, in respect to our great towns, where the rents of the houses, taken

upon an average, will be an equitable rule, for taxing the moveable property in the towns. This will appear evident when we consider, that our great merchants, and traders, must trust out their property into the hands of the poorer sort of retailers, which have little property belonging to them; so that the rich man's property will be taxed, in the hands of the poorer sort of retailers, by the extraordinary rents they are obliged to pay, in great towns, for the convenience of carrying on their business. From whence it appears, to me at least, that if we make an average of the rents of the houses of the towns, and the moveable property in the towns, we shall find them to pay a greater share of taxes, than the moveable property upon the land, in the hands of the farmers or occupiers of the land.

Upon this principle, when the landlord is taxed at one shilling in the pound, for his land, the tenant will pay four pence, in the pound upon his rent, in consideration for his moveable property. Thus the tax, upon the landed and fixed property, would become a ground, or rule, for taxing the moveable property; and they would rise, and fall with each other, in proportion to the necessity of the state. Hence it will follow, that the rental of
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all houses and lands, may serve as an equitable rule for taxing, both the fixed and moveable property, throughout the whole British Empire.

Where taxes are put upon the real value of the rents of the houses and land, they cannot be partial, in any part of the world, where the coin is reducible to the same standard with England. And upon the plan here proposed, the mode of taxation will be easy, and intelligible to every one. And it will remove an objection, made by our American brethren; that our parliament, would want the necessary information, to tax our distant provinces. But, upon this mode of taxation, the parliament can want no information from our distant provinces, to know that a gentleman in America, possessed of an estate of one hundred pounds a year, is as capable of paying, a land-tax, for that estate, as any gentleman, of the same estate, in England. And that any inhabitant, of the towns, in America, is as able to pay a tax, in proportion to the rent of his house, as any man in England. And what will recommend this mode of taxation the more, will be, that it can be collected, without expence by the parish-officers, in every department in the state.

Thus I have endeavoured to show the dangerous consequence, to the community in general, even
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to the utter subversion of every principle and practice of the constitution, to suffer our distant provinces to tax themselves, in their provincial assemblies; or to admit them to send new members into parliament from thence. And, at the same time, have pointed out the mode of taxing our distant provinces, upon such constitutional ground, as affords as ample a security to them; as it does to the people at home: which is all, the most scrupulous men, in reason, and justice can desire; and which, I hope, will give satisfaction to every peaceable, and honest mind, in the whole British Empire.

Having thus gone through what I intended, I shall conclude the whole, by offering a political reflection or two, to the consideration of the sober, and thinking part of our American brethren; founded upon their situation, with respect to Europe in general. Because there are some hot headed, foolish men, to say no worse of them, in America, that would inflame the minds of the people, by representing them as in a state of bondage, and stimulating them to, what they call, flinging off the yoke, and gaining an independency.

Great Britain hath, constitutionally, no yoke for the neck of her enemies, much less for her own sons;

sons; who are all men of the same community, without any distinction. She only desires her distant provinces, to contribute their proportionable share, to the expence of the state, in common with the rest of their brethren at home. If this be a yoke, it is an equitable yoke, by which all societies of men are linked together; and no society can subsist without it, so long as one nation will invade the rights, and properties of another; or the name of conqueror, is known upon the earth.

However, let us indulge these independent gentlemen, and, for a moment, suppose they had gained this independency; and that Great Britain had withdrawn her protection from them. The consequence would be, that they must fight their battles single handed, which would bring upon them such a yoke, as neither they, nor their children would be able to bear; and reduce the people, in America, to the most miserable condition of all men. They must then be at the whole expence, of both forming, and maintaining an army, and navy, for their own defence; and not only in proportion to their own strength, but in proportion to the strength of their most potent enemies; and they would find this expence, a much more gauling yoke than clubbing their mite, with the people of England.

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If the people, in our American provinces, be so very short sighted, as only to look round them in America, they will indeed find, no body of men, there, that will be able to molest them. But their enemies will come, from another quarter. They will be all European enemies, of the greatest maritime strength of any nation in the world; except Great Britain. It is against these, they must proportion their defensive powers, to have any effect; which is impossible for them to accomplish. For all their great towns, are situated either directly upon the sea-coast, or upon some large navigable river, approachable by ships of strength; and consequently they must soon be reduced to two alternatives, either to submit to the first invader, or suffer their towns to be levelled with the ground, and buried under their own ashes. By which means, the inhabitants would be obliged, either to retire backwards into the woods, and live with the savage inhabitants, or quit the country; if they should be so happy, as to escape the hands of the enemy. For whoever is master of the coast, will be master of the inland-country, in spite of all opposition.

Thus America, if left to herself, would either fall under some great power, that was able to conquer

conquer the whole coast ; or she would be divided amongst the several maritime states of Europe, which would be perpetually contending for the superiority, and propagate continual war in the country ; and thus should we see, at once, an end of all their boasted independency.

Upon the present system of politicks, in Europe, Great Britain is so necessary to America, that they cannot subsist one moment without her. And if they were to consider her only as an out-fort, or garrison, upon the borders of their European enemies, America would find it absolutely necessary, for her own defence, to support the power and independency of Great Britain, against all her enemies : for whenever she was conquered, America would fall to the conqueror.

It is a peculiar blessing of heaven, upon our distant provinces, that they are connected with Great Britain ; which is a state of the greatest maritime strength in the world, and which hath always sheltered them, under the shadow of her wings : Whose government, is founded upon the common rights of mankind ; and whose people, at home, are as anxious for the rights, liberties, and privileges of their brethren, in America, as they can be themselves.

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Upon this united foundation, they must continue till some general misfortune overwhelm, all Europe, in one common calamity ; by which, the several powers will be so engaged, in their own defence at home, as to neglect all attention to their distant provinces. And then indeed, in all probability, North America will rise mistress of that part of the world ; but the inhabitants will not be so happy then, as they may be now, if we consider a comfortable, commodious, and secure way of living, as the happy state of man ; which is, undoubtedly, the true end of all society.

To continue, this happy state, to themselves, they need only to fix their eyes upon the first principle of the constitution, which is, THE ANNUAL EXERCISE OF THE ELECTIVE POWER OF THE PEOPLE ; and unite with their brethren in England, to restore, and maintain it, upon its genuine foundation, so that it may operate, freely, and never, hereafter, be restrained, or subverted, EITHER BY THE PREROGATIVE OF THE CROWN, OR BY ACTS OF PARLIAMENT.

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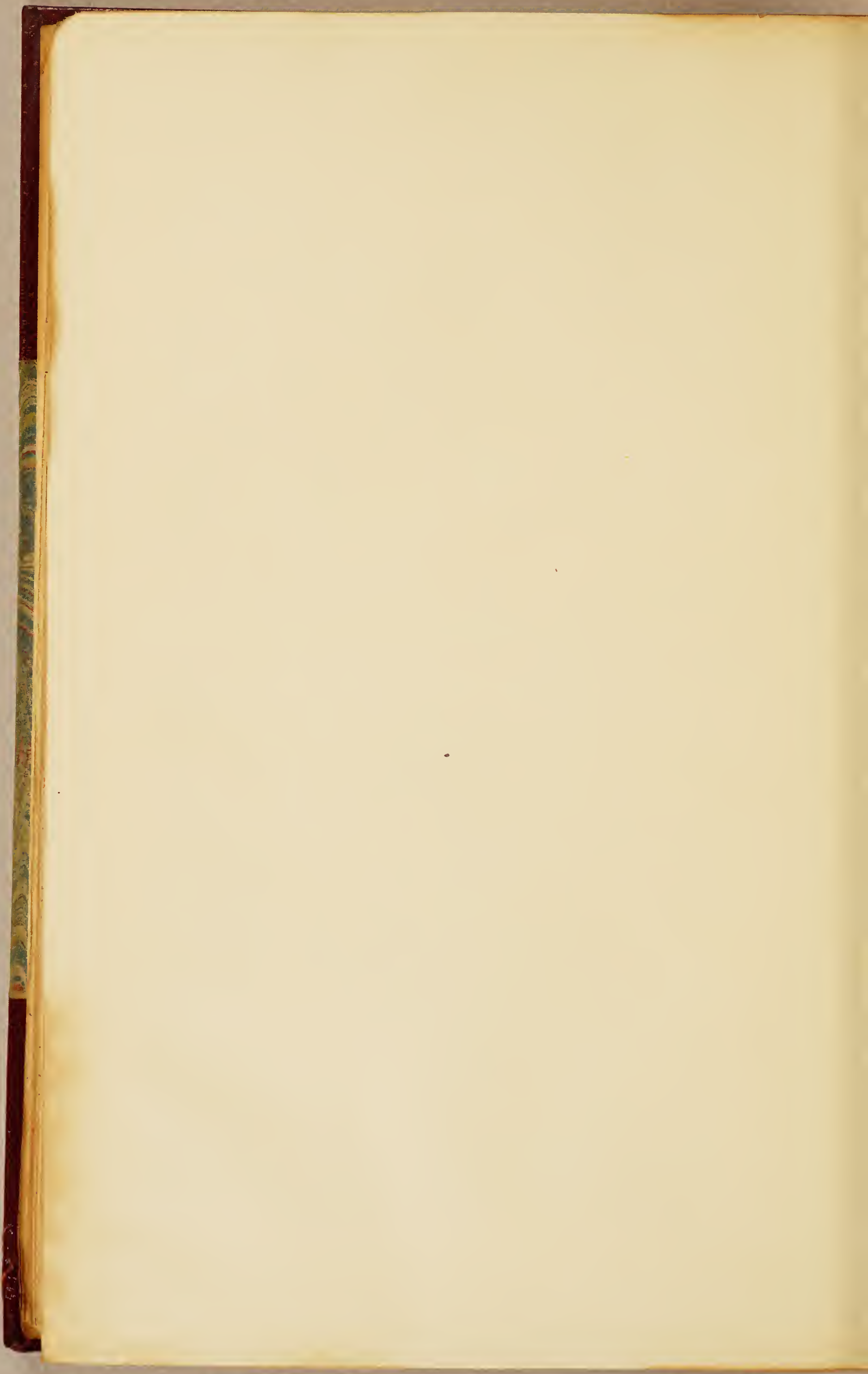
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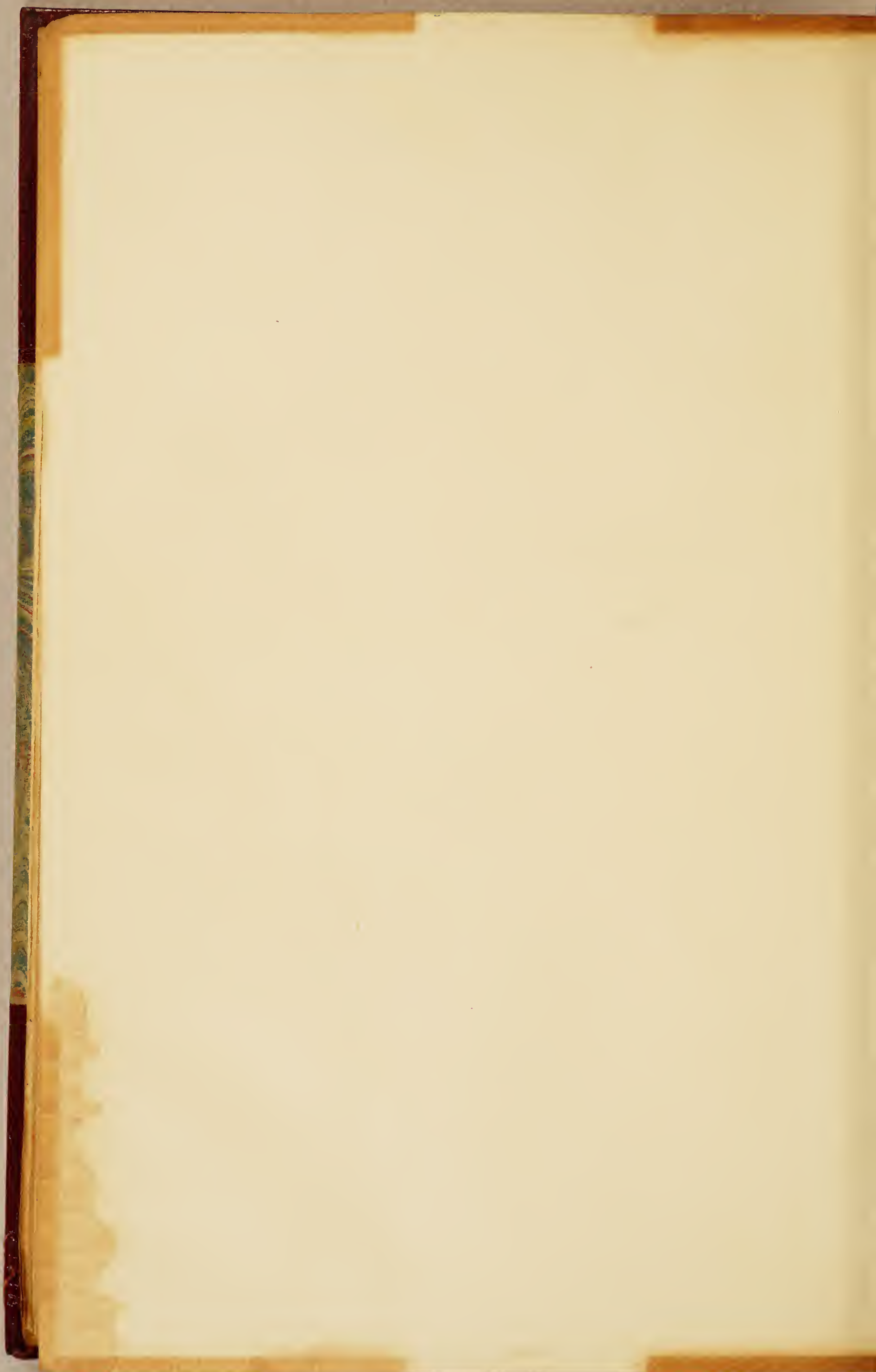
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